

**Disability Rights, Employment and Welfare:
People with Disabilities in Liberal Welfare States**

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THESIS

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LIST OF ABBREVIATIONS

ABS	Australian Bureau of Statistics
ADA	Americans with Disabilities Act
ADAAA	Americans with Disabilities Act Amendments Act
AIHW	Australian Institute on Health and Welfare
ALMP	Active Labor Market Programs
BIAC	Business and Industry Advisory Committee
BPAO	Benefits Planning Assistance and Outreach
CBF	Case-Based Funding
CMP	Condition Management Program
CRPD	Convention on the Rights of Persons with Disabilities
DDA	Disability Discrimination Act
DEN	Disability Employment Network
DES	Disability Employment Service
DEWR	Department of Employment and Workplace Relations
DEEWR	Department of Education, Employment and Workplace Relations
DLA	Disability Living Allowance
DPNs	Disability Program Navigators
DSP	Disability Support Pension
EN	Employment Network
ESA	Employment and Support Allowance
FaHCSIA	Families, Housing, Community Services and Indigenous Affairs

LIST OF ABBREVIATIONS (continued)

HREOC	Human Rights and Equal Opportunities Commission
IB	Incapacity Benefits
ISCA	Intensive Support Customized Assistance
JA	Jobsearch Allowance
JN	Job Network
JSA	Job Services Australia
NA	Newstart Allowance
NCHSD	National Consortium for Health Systems Development
NDA	National Disability Agreements
NDDP	New Deal for Disabled People
NMW	National Minimum Wage
OECD	Organization for Economic Cooperation and Development
PABSS	Protection and Advocacy for Beneficiaries of Social Security
PAS	Personal Advisor Service
PES	Public Employment Services
PLMP	Passive Labor Market Programs
PRWORA	Personal Responsibility and Work Opportunity Reconciliation Act
RRTC-DSD	Rehabilitation Research and Training Center on Disability Statistics and Demographics
SSA	Social Security Administration
SSDI	Social Security Disability Insurance
SSI	Supplemental Security Income

LIST OF ABBREVIATIONS (continued)

TANF	Temporary Aid to Needy Families
TTW	Ticket to Work/Ticket to Work and Workforce Incentives Improvement Act
UDHR	Universal Declaration of Human Rights
UN	United Nations
VR	Vocational Rehabilitation
WCA	Work Capability Assessment
WFI	Work Focused Interviews
WIA	Workforce Investment Act

SUMMARY

This dissertation explores the influence of neoliberalism on national welfare reform and employment policies for people with disabilities and the human rights approach to disability that has developed over the past few decades. These approaches often use the same rhetoric (e.g. independence and responsibility), but with different meanings. While human rights is concerned with equality, equality of opportunity and a decent standard of living, neoliberalism encourages policy to emphasize labor market participation so that individual needs are decommodified and cannot be met without participating in the market. This dissertation conducted case studies of three liberal welfare states - Australia, the United Kingdom and the United States – because they have each adopted welfare to work policies that have been influenced by neoliberalism and they each have strong histories regarding the rights of people with disabilities. Using the United Nations Convention on the Rights of Persons with Disabilities as a framework, the case studies in each country consists of policy analysis and empirical data obtained from 57 people with disabilities who participated in focus groups in the countries. The case studies focused on the extent to which national policy was consistent with human rights and identified best practices and areas for improvement in each country.

Although policies in each country have some key differences, the dissertation found that they also had important similarities, notably that (i) welfare to work represents a choice between employment and poverty for people with disabilities; (ii) the implementation of welfare to work presents challenges to the human rights of people with disabilities; and (iii) welfare to work is focused on supply-side policies without consideration of demand-side factors that promote equality of opportunity. It is suggested that, in order for welfare to work to be more effective

SUMMARY (continued)

and more consistent with human rights for people with disabilities, additional initiatives and/or information about promoting accommodations for and promoting the skills and capabilities of people with disabilities could supplement national antidiscrimination legislation and create a policy environment that equalizes opportunities for people with disabilities. Those initiatives could integrate better with other policies. In short, a more widespread approach might be more effective.

I. Introduction

This dissertation focuses on the intersection of two major influences on people with disabilities: the trend towards recognizing human rights and the influence that neoliberalism has had on national policy. The intersection of welfare reform and employment policy provides space for analysis of whether national policy is consistent with human rights principles. Historically, people with disabilities have been considered to be a “problem” within the welfare state, but the United Nations Convention on the Rights of Persons with Disabilities (CRPD) affirms their right to employment, adequate social protection and participation in society. Recent welfare reform has focused on solutions that emphasize moving from income support to employment in the open labor market. Examples of these reforms include the *Ticket to Work and Work Incentives Improvement Act* (United States), the *Welfare to Work Act* (Australia), and *Pathways to Work* (United Kingdom). Using focus groups of people with disabilities participating in those programs, this dissertation explores how individuals experience their human rights within policies that have been influenced by neoliberalism.

A. Rights and Disability

Over the past few decades, the human rights of specific groups of minorities have been formally recognized by international treaties. The adoption of the CRPD was the culmination of increased attention to the rights of people with disabilities. Many nations have national antidiscrimination legislation, but the CRPD is an important step for moving beyond antidiscrimination and realizing the human rights of people with disabilities. The United States (Americans with Disabilities Act of 1990), Australia (Disability Discrimination Act of 1992) and the United Kingdom (Disability Discrimination Act of 1995) have strong antidiscrimination legislation that promotes equal treatment for people with disabilities within the labor market and

ensures that they have access to reasonable accommodations and adjustments that they need. However, the labor market participation rates of people with disabilities have not improved under these pieces of legislation (Bell & Heitmuller, 2009; Donohue III, Stein, Becker, & Griffin Jr, 2008; Karger & Rose, 2010; Macali, 2006).

Although the CRPD does not specify new rights, it affirms that people with disabilities have and deserve rights on an equal basis with others (Megret, 2008). The Convention calls on national governments to take active steps to realize this within their own policies. The CRPD is based on eight principles: respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons; non-discrimination; full and effective participation and inclusion in society; respect for difference and acceptance of persons with disabilities as part of human diversity and humanity; equality of opportunity; accessibility; equality between men and women; and respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities (United Nations, 2006). National governments are encouraged to ensure that their policies are consistent with these principles.

The human rights approach to disability is embedded in the social model of disability and recognizes that societal barriers prevent participation. Therefore, barrier removal is a key aspect that must be addressed in order for human rights to be fully implemented. Human rights policies promote independence for people with disabilities and recognize that governments have responsibilities to implement policy contexts that create equal opportunities, remove barriers and offers support to people with disabilities so that they can be independent, autonomous, and make decisions about their lives.

B. **Neoliberalism**

The neoliberal influence on national policy has also become more evident in recent decades. Neoliberalism uses much of the same language as human rights by placing emphasis on independence and responsibility. However, they use this rhetoric differently. The influence of neoliberalism implies that policies should favor individual self-sufficiency, through labor market participation (Swenson, 2008). Under this approach, governments defer to the market for solutions to social problems and as the primary way to obtain a decent standard of living.

The neoliberal approach to policy also changes the way that welfare benefits are viewed. Governments increasingly link rights with responsibilities, meaning that welfare benefits have been tied to labor market participation. People have responsibilities that they need to meet before they are eligible for government assistance. For instance, governments have implemented a number of active workfare programs that use supply-side programs to prepare people for the market that beneficiaries are required to participate in. People with disabilities have been included in these reforms in recent years, with the result that rights and citizenship have become dependent on labor market participation and there has been a recommodification of individual needs (Sainsbury, 2001; Shaver, 2002). With a focus on efficiency and economic rationality, neoliberalism has constrained opportunities for marginalized groups by focusing on individual change rather than structural barriers.

C. **Employment, Welfare Reform and People with Disabilities**

The policy domain of employment offers a space where both the trend of neoliberalism and human rights can be clearly observed. Participation in the labor market is directly at the heart of neoliberalism and employment is also considered to be a key human right. The low labor

market participation rates of people with disabilities have been well documented in the literature. While reforms to employment-related legislation, policy and programs were designed to move people from welfare to work, labor market participation and employment rates for people with disabilities remain low in the United States (34.5% employment rate, Bureau of Labor Statistics, 2011), Australia (54.3% labor market participation rate, Australia Bureau of Statistics, 2011) and the United Kingdom (48.4% employment rate, Office for National Statistics, 2009b). Globally, the unemployment rates of people with disabilities are almost twice as high when compared to the unemployment rate of others (OECD, 2009a). The impacts of these low labor market participation rates have been exacerbated in recent years as the influence of neoliberalism has impacted welfare reforms to emphasize labor market participation over benefit programs as the primary mode for providing for one's livelihood (Parker, 2008).

This research will examine whether welfare to work is consistent with human rights, as framed by the CRPD. It draws on the United States, Australia and the United Kingdom as the examples of liberal welfare states where welfare to work policies have been influenced by neoliberalism. These countries also have national antidiscrimination legislation and are parties to the CRPD. As Organization for Economic Cooperation and Development (OECD) countries, they are facing similar social policy challenges of unsustainable growth in benefit programs, high unemployment, and economic recession, coupled with an aging population (Wiseman, 2009). There are also a number of differences between these countries that inform the analysis, especially regarding the design and implementation of welfare to work for people with disabilities (notably, Ticket to Work in the United States is a voluntary program and the other

countries use medical assessments to determine who is impacted). The United States also has only signed the CRPD, whereas Australia and the United Kingdom have signed and ratified it.

D. **The Structure of the Dissertation**

Chapter 2 of this dissertation expands on the theoretical underpinnings of the research, notably the human rights approach to disability and neoliberalism. It also explores employment as a policy domain. The chapter notes that human rights and neoliberalism are both concerned with increasing employment and labor market participation of people with disabilities, and they often use the same terminology. However, there is tension in how that rhetoric is used, because they use similar language in very different ways. One of the fundamental barriers that people with disabilities encounter within policies that have been influenced that neoliberalism is that those policies have little respect for their capabilities and do not consider people with disabilities as workers. The chapter argues that national governments could take steps to better account for the needs of people with disabilities in order for reforms to be effective. It offers a few strategies that could make neoliberal policy more consistent with human rights, but the simultaneous existence of these approaches leaves an important question: is it possible for neoliberal policies to adequately account for human rights of people with disabilities?

This dissertation uses case studies of the United States, Australia and the United Kingdom in order to explore how human rights are experienced within welfare to work policies in these countries. Chapter 3 explains the methods that are used to do this. While human rights are best portrayed by the experiences and the opinions of people with disabilities themselves, the qualitative data is supplemented by policy information in order to contextualize and further

develop lines of analysis. This approach is particularly useful for highlighting the tension that often results between policy rhetoric and policy implementation, as well as with human rights.

Chapter 4 is a case study of Ticket to Work in the United States. The chapter details the Americans with Disabilities Act, Social Security Disability Insurance, Supplemental Security Income and other policies in place that form the context in which Ticket to Work operates. Ticket to Work is a program that was adopted in 1999 and provides people with disabilities receiving Social Security Administration benefits with a ticket that they can redeem with a provider in the Employment Network in exchange for employment services. The goal of the program is to increase the number of people with disabilities leaving the disability benefit rolls and participating in the labor market. Evaluations have shown that the number of tickets that have been redeemed is very low and that agencies are reluctant to join the Employment Network. Analysis of the qualitative data that people with disabilities provided through focus groups focused on six themes: (i) national legislation and discrimination; (ii) perceptions of people with disabilities; (iii) accommodations and accessibility; (iv) responsibilities of citizens and government; (v) dissemination of policy information; and (vi) the intersection of employment, income support and other benefits. That chapter argues that policy in the United States forces people with disabilities to choose between welfare and work and that structural reforms could help to better support labor market participation for people with disabilities and increase employment opportunities. This could include removing the link between healthcare and welfare; restructuring the funding system used to reimburse Employment Networks; introducing better incentives to move into employment; eradicating barriers, including policy barriers; and providing better information to people with disabilities, employment advisors and employers.

Chapter 5 is a case study of welfare reform for people with disabilities in Australia. The chapter reviews the Disability Discrimination Act, Disability Support Pension, Newstart Allowance and a variety of the employment services available to people with disabilities. Welfare reform in Australia is guided by the concept of mutual obligation, and the Welfare to Work amendments that were part of the 2005 national budget included people with disabilities in this concept. People with disabilities who are assessed as being able to work 15 hours or more per week are no longer eligible for Disability Support Pension; rather, they are placed onto Newstart Allowance and expected to participate in employment related activities in order to receive benefits. They receive services through Job Services Australia, and reforms to these employment services are detailed in the chapter. The focus group discussions have been developed into seven themes: (i) international human rights and national antidiscrimination; (ii) the economy and employers; (iii) skills, capabilities and quotas; (iv) responsibilities of citizens and government; (v) employment services and finding employment; (vi) getting involved with a service provider; and (vii) information and communication. This chapter argues that the Australian government could do more to promote equal opportunities and create a labor market where people with disabilities can participate on an equal basis.

Chapter 6 mirrors the previous two chapters, except with an emphasis on the United Kingdom. This includes a review of the Disability Discrimination Act, Employment and Support Allowance, Incapacity Benefits, and other policies specific to the context of the New Labour government.¹ Welfare to work in the United Kingdom for people with disabilities revolved around Pathways to Work. Under this program, people with disabilities were given a Work

¹ A Conservative-Democratic Coalition replaced New Labour and the late United Kingdom government in 2010, and has plans to replace many welfare and employment services with reforms of their own.

Capability Assessment that determined what labor market responsibilities they have in order to receive benefits. Participants in the program participated in a series of Work Focused Interviews and receive employment services designed to move them into paid labor market participation. People with disabilities participated in a series of focus groups, and the data that they provided was organized into seven themes: (i) international and national rights; (ii) welfare reform; (iii) rights and responsibilities under welfare reform; (iv) policy implementation; (v) policy communication; (vi) employer attitudes on capabilities; and (vii) access and adjustments. This chapter argues that more demand-side policies and initiatives could help promote equal opportunities for people with disabilities.

Chapter 7 is the conclusion of this dissertation. It considers similarities and differences of welfare to work and the disability policy contexts in the United States, Australia and the United Kingdom. The chapter focuses the analytical discussion on three main areas: (i) welfare to work represents a choice between employment and poverty for people with disabilities; (ii) the implementation of welfare to work presents challenges to the human rights of people with disabilities; and (iii) welfare to work is focused on supply-side policies without consideration of demand-side factors that promote equality of opportunity. With a specific emphasis on the human rights of people with disabilities, the chapter discusses welfare to work in liberal welfare states and highlights the tension between human rights and the neoliberal approaches to policy found in each country. It argues that additional initiatives and/or information about promoting accommodations for and promoting the skills and capabilities of people with disabilities could be useful, in all countries, to supplement national antidiscrimination legislation and create a policy environment that equalizes opportunities for people with disabilities. Until equal opportunities

for people with disabilities are achieved, welfare to work is unlikely to have much success in moving people from benefits into the labor market. Additionally, these initiatives could integrate with other policies so that employment advisers have better knowledge of them and the people within welfare to work are better able to take advantage of them. A more widespread approach may be useful in order for human rights to be promoted within national policies regarding the labor market for people with disabilities.

The next chapter discusses the theoretical basis for this dissertation. It explores the human rights approach to disability and neoliberal influences on national policy, with specific attention given to the shared rhetoric that they use.

II. Literature Review and Theoretical Foundation

Employment is a critical area of social policy, especially for people with disabilities. People with disabilities are largely marginalized from the labor market and recent reforms have done little to ameliorate the problem. While many people with disabilities may be good employees, the current system of policies and programs do not allow them to demonstrate the efficiency and flexibility necessary for participation in the labor market. Tension exists within the policy domain of employment, between people with disabilities and their allies, who argue that they have a right to employment and need equal opportunities, and national policies, which favor principles of free market and minimal government intervention.

These positions will be examined in this chapter, which explores two dominant discourses in contemporary society: neoliberalism and human rights. Each of these approaches has had influence on the policy domain of employment for people with disabilities. This chapter will analyze the competing stances of neoliberalism and human rights. This chapter will evaluate how these approaches can simultaneously have influence in the same policy space, asking, is it possible for policies that have been influenced by neoliberalism to adequately account for human rights of people with disabilities?

In recent decades, human rights have been extended to a number of groups (women, children, etc.) through United Nations conventions. The adoption of the Convention on the Rights of Persons with Disabilities (CRPD) clarifies that people with disabilities also have human rights. The following narratives will discuss the invisibility of disability in human rights historically, the development of the CRPD, what the CRPD means in practice, and consider many of the debates surrounding disability and human rights. This includes the debates of universalism versus cultural relativity and whether the Convention grants separate/special rights

to people with disabilities. One of the strongest contributions of the CRPD is that it raises awareness of people with disabilities as deserving of rights, and it asks national governments to recognize this in policy and law. The Convention helps to change attitudes and public perceptions of disability with the explicit recognition of the role that society plays in creating disability.

While the growth of human rights and development of the CRPD has been a positive development in the lives of people with disabilities, that development has occurred in an increasingly neoliberal context, which has seen governments defer to the market for solutions to social problems. For instance, welfare benefits have been tied to labor market participation in recent years. These policies began in the 1980s and more recent welfare have further entrenched the neoliberal perspective in social policy. While neoliberal practices are evident to some extent globally, the approach is strongest in liberal welfare states, which emphasizes individual responsibility and free market practices. One impact of neoliberalism is that rights and citizenship have become dependent on labor market participation with a recommodification of individual needs. Recommodification refers to the process in which individual needs are no longer provided for under welfare benefits (Parker & Cass, 2005; Shaver, 2002); they have been commodified, meaning that a person has to purchase these goods by entering the labor market . Under decommodification,² individuals were able to meet their needs (albeit to different extents) independent of the labor market; the welfare state fulfilled this role. Under neoliberal policies,

² Decommodification is one of the factors that Esping-Andersen (1990) uses to construct his typology of welfare states. A large body of theoretical literature has been developed around this concept, and a review is beyond the scope of this dissertation.

individuals must participate in the market in order to meet their needs and receive the full benefits of citizenship that allow them to access services from the state.

The policy domain of employment offers a space where both the neoliberal and human rights perspectives can be clearly identified. Participation in the labor market is the central component of policies influenced by neoliberalism. Employment is also considered a key human right, especially for people with disabilities. While national governments have a range of policy options available to them, the countries involved in this research (the United States, Australia and the United Kingdom) have implemented welfare to work as the preferred policy response to unemployment and rising benefit enrollments and expenditures for people with disabilities.

This chapter argues that national governments in industrialized welfare states, including the three countries involved in this research, should fully implement the Convention and include a wider focus in policy, including demand-side initiatives and promoting equal opportunities alongside the existing focus on supply-side measures. One of the main contradictions between the human rights approach and neoliberalism is that people with disabilities are not recognized as being able to make significant contributions in the economy. Both human rights and neoliberalism emphasize labor market participation, albeit in very different ways. Because they both stress the importance of employment, this chapter considers how these trends can exist simultaneously; that is, it explores how human rights can be promoted within a policy framework influenced by neoliberalism.

A. **Human Rights and Disability**

1. **The history of rights**

Modern discussions of human rights tend to define them reflexively: human rights belong to humans because they are human. That is, human rights belong to any human individual and exist simply because one is the human. Nobody grants these rights, though outside influences can be threats to realizing these rights. Jack Donnelly, a prominent writer on the liberal theory of human rights, begins many of his publications with this definition. For instance, he defines human rights as "the rights one has because one is human" (Donnelly, 2003b, p. 7).

Conceptions of human rights have their roots in theories of justice, which go back as far as (Aristotle, 350 BC, trans. 1908), extend through John Rawls (2001, originally published in 1971) and into theories of participatory justice (e.g. Fraser, 1997, 1998, 2003; Honneth, 2004; Young, 1990). Most theories of justice are concerned with the distribution of goods in a society. To Aristotle, a just distribution is one of complete equality since, in a democracy, all are born equal. All have equal claim to the same goods and opportunities (cited in Green, 2007). These conceptions of distributive justice underlie the foundations of the welfare state. As noted, recent scholars have made an argument for the importance of participatory justice; all people should have equal opportunities to participate in society. Participatory justice is associated with the human rights approach and complements the idea of human rights found in the CRPD.

Rawls dominated the field of justice for many decades. His theory was based on two principles: the first is the principle of equal basic liberties, which guarantees all individuals basic negative liberties (for instance freedom of expression); the second principle recognizes that primary social goods should be distributed to the benefit of the most marginalized group (using

what he refers to as the Veil of Ignorance); but also realizes that society should promote equality of opportunity as a method to ensure the proper distribution of goods. The first principle takes precedence over the second, and the second half of principle two takes precedence over the first half (McLaughlin & Baker, 2007). Basic liberties must always be provided to all individuals as a prerequisite to justice because people need basic liberties to pursue social goods. Where systems of redistribution are needed, Rawls asserts that ensuring people have equal opportunities is the foundation for a just system. If more redistribution is needed, it should be done so that it most significantly benefits the groups of people who need it most. To Rawls, self-respect is the most important principle and should not be distributed unequally (Ci, 2005). Rawls used “justice as fairness” to reify liberal democracy by bringing back the ideas of social contract theory to replace utilitarianism (Lakoff, 1990). Rawls favored liberty and promoted equality of opportunity. The distributions of goods and opportunities represented by the idea of justice relate back to human rights because Rawls believes that basic human liberties (rights) should not be violated under any circumstances (his first principle) and also suggests that equal opportunity is necessary for a just system of redistribution. This aspect of his work leads into participatory justice and hints at the human rights issue of equal opportunities contained in the CRPD.

An early conception of participatory justice was provided by Professor Jacobus tenBroek nearly 50 years ago, and it is especially noteworthy because it was specific to disability. He argued that people with disabilities needed to be able to participate in and live in the world, which has become one of the key features and the underlying values in the CRPD. Participatory justice mandated that they be able to participate in society equally. His writings describe an early interpretation of the social model of disability in that he recognizes that the environment plays a

role in creating disability and that misconceived attitudes about disability prevented people with disabilities from full participation (Stein & Lord, 2008b). Therefore, his theory of participatory justice maintained that policymakers should seek to integrate people with disabilities into the full range of policies, regardless of the cost. This includes removing the paternal approach to many disability programs. The CRPD, which is discussed in a later section, uses the same approach to participatory justice (Stein & Lord, 2008b).

These theories of justice form the basis of modern understandings of human rights. A sense of justice dictates that societies should provide those goods which allow humans “to live tolerably well and to fulfill his distinctively human endowment” (Deigh, 1988, p. 163). That is, rights are what individuals need in order to obtain justice. Human rights are related to the moral view of what is needed for a life of dignity (Donnelly, 2003b).

There are other approaches to human rights, such as those which have been associated with social contract theory. One of the most prominent writers in this field is John Locke, who explained that rational humans have natural rights to life, liberty, and property, rights they have even outside of civil society (cited in Deigh, 1988). Rational humans are free to self-govern and have authority over their lives until they assume obligations through a social contract with others. A social contract is an agreement where people agree to respect the rights of others in return for the freedom to enjoy their own rights. These rights are not ascribed to “madmen, children, idiots, and others incapable of reason” (Deigh, 1988); these are governed by others, usually family. Thus, to have these rights, one has the responsibility to remain competent and fit to govern their lives (i.e. rational) which implies the duty of self-preservation. Deigh goes on to suggest that Locke’s theory justifies government because when rational human beings recognize

the value of a human life and human rights they will do what they can to protect it. This theory is often associated with the rise of liberal states and can be referred to as the liberal theory of human rights. It is important because it highlights the social contract between individuals. People today have a social contract with one another (mediated by government) and it is recognized that all people have the same human rights. The CRPD makes it explicitly clear that people with disabilities also possess these rights, and are capable of self-determination.

Liberalism endorses the principle of equal concern and respect. Individual autonomy, or the capacity for self-governance, is central. The equality that liberals value grounds its belief in natural, or human, rights. It is associated with Locke, Kant, Paine, Rousseau, Dworkin, and Rawls. It also has a utilitarian background associated with Hobbes and Bentham (Donnelly, 2003a, 2003b). Under utilitarianism, social goods and rights are distributed to those who can utilize them to the maximum benefit of society. Therefore, it limits conceptions of rights to specific groups of people (those who could get the most social value for society out of them). The liberal recognizes that all individuals deserved rights, and the equal concern and respect that accompany them. The liberal approach forms the basis of the United Nations system of international human rights, which is discussed in the next subsection.

2. **The United Nations system**

a. **Donnelly and the Universal Declaration Model**

Contemporary human rights are usually associated with the United Nations, although they are also protected by various pieces of national legislation, regional organizations, such as the European Union, and other international bodies, such as the International Labor Organization. The human rights system associated with that United Nations

is based on the liberal theory of human rights. Donnelly (2003a, 2003b) provides a clear explanation of this theory, which he refers to as the Universal Declaration Model.

Four characteristics define the Universal Declaration model: (i) human rights are used to implement certain values; (ii) human rights belong to individuals, not groups; (iii) human rights are indivisible, meaning that they account for both civil, political, economic and social rights; and (iv) human rights must be implemented by nation-states (Donnelly, 2003a).

The first characteristic - implementing certain values - reflects the Universal Declaration Model assumption that everybody deserves equal concern and respect. The Universal Declaration is a list of what most people would accept as human rights after thinking about it (Donnelly, 2003b). Human rights should not be thought of as the means to an end; they are what humans deserve to enjoy (Ci, 2005). The Universal Declaration model has largely internationalized norms of values and rights concerning the lives of humans (Donnelly, 2003b). The existence of international human rights places obligations on states to secure those rights for their nationals. This is an important point because it makes it clear that national governments are responsible for incorporating human rights principles into their policies, and this dissertation explores how well the United States, Australia and the United Kingdom do this.

The ideas of equal concern and respect are the basis for a political conception of justice. Inequalities of goods or opportunities must be compatible with that conception, and governments need to intervene to remedy social and economic inequalities (Donnelly, 2003b). While a market-based system leads to inequalities, which “is not necessarily objectionable,” the principle of equal concern and respect calls for an economic floor to keep individuals above degrading circumstances (p. 46). Equal concern and respect are the foundational values of the Universal

Declaration Model and underpin all aspects of human rights. This characteristic is of utmost importance because it recognizes the obligation that governments have to intervene where necessary. Intervention and effective employment policy are crucial to the success of people with disabilities in the labor market in liberal welfare states where they face inequalities and barriers.

The second characteristic is that human rights are individual, not group, rights. Under this view, States must be neutral with regard to difference and offer citizens freedom of association and guaranteed participation in society. Donnelly (2003b) notes that recognizing group human rights “would supplement, perhaps even complete the Universal Declaration model” (p. 208). Still, he opposes group rights because it is unclear which groups should be granted rights and what the content of these rights should be. Commenting on two groups that typically make claims for group-based rights – women and minorities – he argues that rights specific to them are redundant because they already apply to *everyone*; therefore, group identity is not a subject of international human rights (Donnelly, 2003b). It follows that if existing human rights were better implemented and protected, there would be little need for additional group rights.

Many scholars, such as Iris Marion Young (1990), critique this position and argue that group-based rights are necessary *because* existing rights are not equally implemented and many groups experience discrimination and oppression. It is necessary that group differences are acknowledged so that their specific needs can be better accounted for (Kanter, 2003). Concerning social goods, existing systems of distribution do not adequately account for the oppressive social structures and institutional contexts that regulate distribution. Young (1990) argues that a socially just system must also distribute nonmaterial goods such as power and opportunity. By arguing this, she is defending a more inclusive participatory framework that

affirms group differences and contributes to the vision of a good society that includes a highly differentiated and plural democratic public. Nancy Fraser (1997, 1998, 2003) also argues that group differences must be accounted for under socially just societies. Marginalized groups face injustice in two ways: socio-economic (i.e. material disadvantages) and cultural (i.e. not having representation and facing disrespect). In her view, the remedy to these situations is to address redistribution of goods to erase material disadvantages alongside recognition of the cultural value of the group.

Because existing human rights have not had success in allowing people with disabilities to participate in an equal basis in society, the CRPD was a necessary development. It is an example of a group-specific Convention that recognizes the marginalization and oppression of people with disabilities globally, and its development continues the United Nations' recognition that certain groups are deserving of human rights (for instance, conventions specific to women and children have also been adopted). As Megret (2008) explains, the CRPD was necessary because the experiences of people with disabilities are unique and must be explicitly protected. In order to be treated equally and have a just distribution of resources, it is necessary that the marginalization of people with disabilities is recognized and measures to redress marginalization incorporated into policy. Therefore, Megret argues, group-specific treaties are about material needs more than conceptual norms. The CRPD protects the ability of people with disabilities to access goods and erase material disadvantages and maintain their identities as "different" while emphasizing that they deserve rights and need to participate and have representation in social policy, especially those policies that directly impact them. The Convention does not create any new rights (a point to be taken up further in a later subsection), so scholars like Donnelly offer a

useful argument by proposing that group rights do not do anything more than individual rights do. However, because those rights were not adequately protected, a separate Convention was necessary to ensure that governments pay attention to the rights of people with disabilities.

The third characteristic of the Universal Declaration Model asserts the indivisibility of human rights; that is first-generation civil and political rights cannot be separated from second-generation social and cultural rights (Donnelly, 2003a, 2003b). First-generation rights include the rights to life, religion and political participation. Because many of these rights protect an individual from interference by other parties, they can be thought of as negative rights. Second-generation rights are thought of as positive rights. They are based around the idea of equal opportunity and they include the rights to education and a standard of living (Stein, 2007). First-generation rights are civil rights that are about equal treatment not equal opportunity (Stein & Stein, 2006). It is commonly accepted in contemporary policy that human rights cannot be protected if they are split. In order for a person to have human rights, s/he must have them all; that is, one right is diminished when the others are not also present (Donnelly, 2003a, 2003b).

The 1986 UN Declaration of the Right to Development, the UN Convention on the Elimination of Discrimination against Women and the Vienna Declaration at the 1993 World Conference on Human Rights stressed the indivisibility of human rights (Stein & Stein, 2006). The CRPD similarly confirms that human rights are indivisible and emphasizes that people with disabilities need the full range of rights (United Nations, 2006). Specifically they need to be able to achieve recognition of their civil and political rights and have access to redistribution of social and economic rights in order to fully participate in society.

The fourth and final characteristic of the Universal Declaration Model stresses that it is up to nation-states to implement human rights. While international conventions and treaties helped to establish norms for human rights, international bodies only have responsibility for monitoring the national developments and do not have (or do not exercise) the power to force individual nations to comply. Nations choose to do so because of the moral responsibility that treaties impose and to uphold their international reputations as countries that protect the rights of citizens. The CRPD specifically recognizes that human rights for people with disabilities depend on national action. The requirements that the Convention places on national governments is detailed in a later section, and this dissertation concerns how well national governments implement rights for people with disabilities.

These four characteristics contribute to an understanding of the disability human rights approach that this dissertation adopts with respect to human rights. This approach affirms the first, third and fourth characteristics and clarifies what they mean to people with disabilities. However, the disability human rights approach challenges the second characteristic and argues that there is a need for specific group human rights. This approach will be further detailed in a later section.

b. **International Bill of Human Rights**

As an explicit formulation of the liberal approach to human rights, Donnelly's Universal Declaration Model can be used to describe the development of international human rights and forms the core of the key instruments within the United Nations system, specifically the International Bill of Human Rights. The International Bill of Human Rights, which consists of the Universal Declaration of Human Rights (UDHR) (United Nations,

1948), International Covenant on Civil and Political Rights (United Nations, 1966a), and the International Covenant on Economic, Social and Cultural Rights (United Nations, 1966b), form the basis for most human rights claims. Mutua (2007) argues that the UDHR is widely regarded among academics, activists and states as the epitome of human rights standards. However, others (e.g. Bickenbach, 2001) argue the UDHR is so general and unenforceable that it amounts to rhetoric. Nevertheless, the UDHR is an important development internationally because it recognizes the worth of all humans and that they deserve to enjoy it very human rights on an equal basis with others. While it does not include disability specifically, it has provided the basis for the CRPD and other more specific rights-based conventions. Bickenbach may be correct in his assessment that the UDHR amounts to little more than rhetoric and is not enforceable, but it does have normative worth in that it symbolizes the idea of human rights and reinforces that all individuals have human rights. The UDHR represents an ideal that future work can build off of and nations can hold one another to in order to implement policies that respect the rights of people with disabilities.

c. **Invisibility of disability historically**

In the years following the International Bill of Human Rights, the United Nations began to recognize differences between certain groups and specifically addressed them to ensure that they receive equal protection of their rights (Mutua, 2007). These are the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention on the Rights of the Child; and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Disability was not a specific part of these

conventions, except for a small mention in the convention for children, nor did the International Bill of Human Rights specifically address disability. Therefore, although human rights have been codified in international law for over sixty years, the position of people with disabilities within that framework has been largely invisible. People with disabilities are only protected through the “other” category that most of these conventions include, which highlights their exclusion from human rights discourse (Parker, 2006; Waddington, 2001). The implications of labeling people with disabilities as “other” have a long history of analysis in disability studies (Davis, 1999; Fitzgerald, 1999; J. Morris, 1996; Newell, 2007; Wendell, 1996). This label implies that people with disabilities lie outside the realm of humanity; that is, “othering” signifies that a person is not “normal.” The CRPD provides the necessary explicit acknowledgement of the rights of people with disabilities so that they are clearly recognized as part of the human diversity and places disability on the continuum of “normal” human functioning.

d. **Precursors to a disability-specific convention**

Despite disability not being included in international human rights documents, in a review of their activities from their first 50 years of existence the United Nations (2004) notes that it did not exclude people with disabilities from all of their work. From 1945-1955, the UN took a welfare perspective toward people with disabilities, with an emphasis on care and programs for them. The next fifteen years saw a shift to a social welfare perspective that recognized the need for people with disabilities to integrate into society and promoted their ability to access welfare and public services. Still, there was little focus on societal barriers; disability was viewed under the individual model of disability.

The 1970s saw the rise of a rights-based approach to people with disabilities within the United Nations. The two most significant documents to come out of the UN are the Declaration on the Rights of Mentally Retarded Persons (United Nations, 1971) and the Declaration on the Rights of Disabled Persons (United Nations, 1975). These declarations recognize the rights that people with disabilities have, and the latter specifically addresses discrimination, but they are still based on a medical model view of disability (Stein & Lord, 2008a; Waddington, 2001). The Declaration on the Rights of Disabled People proclaims the equal civil and political rights of persons with disabilities around the world and sets the standard for equal treatment and access to services to further social integration (Bickenbach, 2001). However, these declarations are not binding under international law and the human rights of people with disabilities are dependent on national legislation. This makes it difficult for people with disabilities to access their rights because many nations do not adequately include disability within their legislation and there is little guidance on what appropriate policy responses to disability should include.

The 1980s saw increased attention given to the rights of people with disabilities internationally. The United Nations declared 1981 the International Year of Disabled Persons and 1983-1992 the International Decade of Disabled Persons. The most significant event of this period came in 1982 with the adoption of the World Program of Action, whose objective was to “promote effective measures for the prevention of disability, rehabilitation and the realization of the goals of full participation for disabled persons in social life and development” (United Nations, 1982, p. 1).

The time period following the World Program of Action witnessed a change in the way that disability was approached worldwide. For a long time, disability was viewed in the context

of the medical model; disability was an individual problem that was treated medically. Alternatively, under individual models of disability, they were objects of charity or tragedy and viewed as in need of special treatment to “fix” their inherent differences (Oliver, 1990). Large systems of charity were common and little attention was given to equal rights or opportunities for people with disabilities. The World Program of Action and subsequent International Decade of Disabled Persons marked a change in focus to a human rights approach towards disability. The human rights approach ensures that people with disabilities have equal rights for participation in society and actively includes people with disabilities in the implementation of their rights, so they can fulfill their potential (Fischer, Franke, & Rompel, 2006). One of the more significant reasons for the increased attention on disability is that during the 1980s many organizations of people with disabilities developed strong relationships with the United Nations, which helped develop many of the initiatives that took place in that decade (Lang, 2009).

Following the International Decade on Disabled People, the UN passed the Standard Rules on the Equalization of Opportunities for People with Disabilities (Standard Rules) in 1993. The Standard Rules are based on the World Program of Action principle that people with disabilities have the right to full and equal opportunities and participation in economic and social life (Michailakis, 1997). This is important because it implies active policies and barrier removal, not just non-discrimination (Metts, 2000). Although not binding international law, this agreement does set an international standard of non-discrimination and inclusion for people with disabilities (Yeo, 2001). Still, Parker (2006) argues that the Standard Rules constitute a moral and political commitment for national governments regarding human rights for people with disabilities. Further, the Standard Rules have been influential in the development of national legislation

regarding people with disabilities. The Indian Persons with Disabilities Act of 1995 was directly based on the Standard Rules and other countries have also introduced national non-discrimination legislation for people with disabilities in response to increased international focus on disability issues (Yeo, 2001).

In 1994, the Committee on Economic, Social and Cultural Rights adopted General Comment No. 5 which included the rights of people with disabilities under the International Covenant on Economic, Social and Cultural Rights (Parker, 2006). Louis Despouy's (1993), who in 1984 had been appointed the Special Rapporteur on disability and human rights, report instigated this General Comment. He argued that disability was left out of previous instruments because of a lack of awareness. However, the UN now accepted that the human rights of people with disabilities should be protected with both general and specific instruments (Waddington, 2001). In 2001, the UN General Assembly recognized that their efforts had not led to significant improvements in the lives of people with disabilities and established an Ad Hoc committee to consider a disability-specific rights treaty.

3. **Convention on the Rights of Persons with Disabilities**

The Ad Hoc Committee quickly decided to pursue an international convention specific to people with disabilities. There were many reasons that contributed to this decision, notably the continued discrimination against and experiences of people with disabilities led the UN to doubt whether any country does a sufficient job for protecting people with disabilities (Stein & Stein, 2006). Further, while the United Nations protects other disadvantaged groups, people with disabilities have only been granted their rights through weaker nonbinding instruments, and it was necessary to promote a rights-based model that emphasizes the broader

social, cultural, economic and political environment and recognizes discrimination as a major barrier to participation in society (Waddington, 2001). The CRPD also acknowledges the role that society plays in creating disability; this advancement is important to both social policy and disability studies and will be explored in more detail in a later subsection. Still, the medical model has a prominent place within disability policy in modern liberal welfare states. For instance, medical professionals serve as gatekeepers to disability benefits; medical opinions are used to determine eligibility with little regard for contextual factors specific to an individual. The important role of medical professionals is stressed later in this dissertation, particularly the assessments that are part of welfare to work in Australia and the United Kingdom. Roulstone and Barnes (2005b) make this point in the United Kingdom and argue that it is evident that the medical model is dominant within disability policy.

Megret (2008) argues existing human rights instruments have missed four features concerning people with disabilities: (i) they have not been aware that including disability is important and that people can be discriminated against because of disability; (ii) they do not account for the possibility that rights mean different things to different people; (iii) they do not consider that the State is not the only threat to human rights, there is no recognition of the role of social structures and exclusion; and (iv) they do not realize that the concept of human rights, which supposes that all individuals are equal, is insufficient because, for example, people with disabilities do not experience autonomy equally. Indeed, the resulting Convention itself recognizes many of these reasons within its Preamble. As discussed earlier, proponents of the view that human rights belong to individuals, such as Donnelly (2003a, 2003b), oppose that the Convention was necessary. However, it is important to reiterate that existing instruments did not

meet the needs of people with disabilities and a treaty that explicitly recognizes people with disabilities as a group that possess rights is essential for their social participation.

From the beginning, organizations of people with disabilities were encouraged to participate in the formulation of the Convention. The importance of involving disability organizations is highlighted by the mantra “nothing about us without us” that these organizations use. Charlton’s (2000) book by the same name highlights that participation by people with disabilities in politics and policymaking is empowering and is a key strategy for overcoming marginalization. Prior to the adoption of the Convention Quinn and Degener (2002) had emphasized the inclusion of people with disabilities in making decisions that concern them. In this way, it is important that people with disabilities are seen as subjects rather than objects. Therefore, for the CRPD to include people with disabilities from its earliest stages was a very positive development for the disability community. Their participation was achieved primarily through the International Disability Caucus, which spoke for about 50 disability organizations in meetings of the Ad Hoc Committee, which was unusual for a United Nations convention because they are typically negotiated solely by representatives from UN member states (Lang, 2009). The UN ensured that disability organizations and civil society would have a permanent voice under the Convention because their participation was included in the treaty itself. The participation of these organizations is important because they are able to provide specialized expertise on disability issues and contribute to meaningful solutions (Melish & Perlin, 2007).

The treaty that resulted from those negotiations, the Convention on the Rights of Persons with Disabilities (United Nations, 2006), was the quickest rights treaty to be negotiated internationally. This is noteworthy, because over the past decade it became more difficult to

reach a consensus on standard-setting and developing human rights treaties (Mutua, 2007). However, the CRPD had broad-based support from a variety of countries and quickly entered into force.

a. **The Convention and the social model of disability**

Within the Preamble, the CRPD emphasizes the role that society plays in creating disability: “disability is an evolving concept and that disability results from the interaction between persons with impairments and attitudinal and environmental barriers” (United Nations, 2006). This is a significant move in the understanding of disability worldwide because it implies that the explicit discussion of rights in the Convention exemplifies a paradigm shift from the medical model of disability to the social model.³ Rather than viewing people with disabilities as needing to be “fixed,” the social model recognizes that society plays a substantial role in constructing “disability;” social institutions contribute to disabling people with impairments (Oliver, 1990). The Convention makes a categorical affirmation of the social model by recognizing the various barriers to full participation. Specific mention of these barriers and potential ways to overcome the barriers that society creates are included in many of the articles (Stein & Lord, 2008b). Therefore, the rights contained in the CRPD link back to the social model by describing how society needs to change and remove obstacles that create disability.

³ The models of disability are a key analytical point in Disability Studies. A full and detailed discussion is outside of the scope of this dissertation. This dissertation adopts the view espoused by the Convention: society erects many barriers that prevent people with disabilities from full participation in society and national governments have the responsibility to enact policies that promote full participation by removing barriers.

b. **Core values/principles**

Despite the existence of general human rights treaties, as noted previously, people with disabilities experience discrimination and oppression in many facets of their lives (Charlton, 2000; United Nations, 2006). In recognition of the inequalities that people with disabilities face, the United Nations adopted the CRPD to specifically protect their rights. The Convention is explicitly built on eight rights-based principles: respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons; non-discrimination; full and effective participation and inclusion in society; respect for difference and acceptance of persons with disabilities as part of human diversity and humanity; equality of opportunity; accessibility; equality between men and women; and respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities (United Nations, 2006). These principles are embodied in each of the articles the CRPD contains and the general principles behind the CRPD are intended to guide how the treaty is interpreted (Lord & Stein, 2008).

The general principles can be used as a tool to assess existing laws and whether it adheres to the objects and purposes of the Convention. Lord and Stein (2008) provide an explicit example of using the CRPD's principles as a framework in their article when they discuss how the principles could be used to review a country's electoral code. This dissertation takes a similar approach by using those principles to assess national welfare to work policies. Drawing on Lord and Stein's example, this dissertation constructs an analytical framework (see Appendix B) to be used to assess the degree to which each of those principles are entrenched in national policy. For instance, the general principle on non-discrimination informs analytical questions about how

people with disabilities are protected under antidiscrimination legislation in each country. How well is that legislation enforced? How do scholars and individuals view the non-discrimination context in each country? In addition to the general principles found in the CRPD, the framework draws upon the Convention's articles specific to employment and income maintenance, as well as key themes from social policy and disability studies literature (refer to Chapter 3 for additional information).

c. **Substantive contents**

The CRPD consists of a preamble and 50 subsequent articles. Articles 8 through 30 contain substantive contents on a number of rights domains. Articles 27 and 28 are of particular importance to this dissertation because they refer to “work and employment” and “adequate standard of living and social protection,” respectively. The wording used in Article 5 (“any person on the basis of disability”) of the CRPD protects against a range of people, including people with disabilities, people who have been regarded as having a disability, or people who have associations with people with disabilities (United Nations, 2006). This is important because it adopts a very broad view of what it means to have a disability, removing the need for medical determinations of disability. The definition is inclusive of a wide range of individuals and the allies who work alongside them.

i. **The Convention and existing rights**

The Preamble of the Convention makes it clear that its purpose was not to create new rights, but rather to clarify that rights that exist under others human rights instruments also apply to people with disabilities. The CRPD “clarifies and qualifies how all categories of rights apply to persons with disabilities and identifies areas where adaptations have

to be made for persons with disabilities to effectively exercise their rights and areas where their rights have been violated, and where protection of rights must be reinforced” (United Nations, n.d.).

Megret (2008) argues that the CRPD does more than just clarify and qualify existing human rights so that they apply to people with disabilities. It is his view that the CRPD does four things: (i) affirms existing rights; (ii) reformulates some existing rights; (iii) extends some rights; and (iv) creates some new rights. He argues that the Convention's claim to not create new rights is not entirely true. He uses the term “disability human rights” to signify them as rights that are based on universal ideas but are specific to people with disabilities.

However, the claim that the CRPD does not create new rights is at least true in principle. The Convention was created so that people with disabilities can enjoy the rights contained in other human rights treaties, and often times the Convention had to specify how those rights applied to people with disabilities and over explain the general principles behind those rights. The Convention goes into more detail on the explicit marginalization that people with disabilities experience and ways to better integrate them into society than other human rights treaties. While it has been discussed that the rights contained in the CRPD already apply to the human population, the Convention was necessary to promote this view globally and ensure that the rights of people with disabilities are protected within national legislation. Two areas where this is critically important - employment and income maintenance/social security - are discussed in more detail in the following subsections.

ii. **Employment**

Employment is of critical importance to people with disabilities. Employment is at the core of social participation for all individuals and people with disabilities have been systematically marginalized from participating in the labor market. The Organization for Economic Cooperation and Development (OECD, 2003) has recognized employment and income maintenance as the “twin pillars” of disability policy since economic well-being impacts all other facets of an individual’s life (a more in-depth discussion of the importance of employment is taken up in a later section of this chapter).

With regard to employment, Article 27 of the CRPD recognizes that people with disabilities should have access to employment in the same manner that the rest of population does. This includes equality in access to training programs and employment services, opportunities for entrepreneurship and making employment decisions through their own self determination of what is best for them. The government has a responsibility to promote opportunities for people with disabilities, through affirmative action programs such as quotas where necessary, and ensure that employees with disabilities have access to the accommodations that they need. The government should also set an example by employing people with disabilities in the public sector. Employment in the private sector/mainstream settings is the ultimate goal, and people with disabilities should be free from harassment and discrimination, earn the same wages and benefits as other workers and enjoy safe working conditions in these settings (United Nations, 2006). These provisions are included in the analytical framework that this dissertation utilizes.

iii. **Income maintenance**

Like employment, income maintenance is an important policy domain for people with disabilities. Because many are marginalized from the labor market and others cannot work, income maintenance programs provide people with disabilities with the resources to meet their needs. Although the CRPD does not expressly require that States provide people with disabilities with right to the second of the “twin pillars,” income maintenance, Article 28 does guarantee an “adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions ... without discrimination on the basis of disability” (United Nations, 2006, para. 1). They are also entitled to “disability-related expenses, including adequate training, counseling, financial assistance and respite care” (para. 2(c)). In addition, they are “ensure[d] equal access by persons with disabilities to retirement benefits and programs” (para. 2(e)).

Therefore, the right to social assistance programs is protected by the Convention. Dean (2007) points out that the human right to welfare provision has never been strong. Welfare is an economic and social right, which have not been as well implemented or monitored as civil and political rights. Van Langendock (2007) disagrees and cites a long history of the right to social security in international human rights documents, beginning with the Universal Declaration of Human Rights in 1948 which states that “everyone, as a member of society, has the right to Social Security” (article 22). However, the meaning of this right is open to interpretation. It could be interpreted as meaning that citizens have the right to contributory schemes that workers contribute to and later receive. However, the International Covenant on Economic, Social and Cultural Rights (United Nations, 1966b), which is the document in the International Bill of

Human Rights that is specific to economic, social and cultural rights, offered some clarification by including the clause “including social insurance” in Article 9. Social insurance is typically non-contributory and available to those in need. Notably, the CRPD also includes a clause regarding disability-related expenses, which corresponds with an argument found in disability studies/social policy that people with disabilities need an allowance specific to the additional costs they incur because of living with a disability.

d. **Potential impacts of the Convention**

Much has been written about the potential impact of the CRPD, and although it is too soon to see how the CRPD will impact national policies, it is an important step in human rights. Prior to the CRPD, rights-oriented disability legislation in liberal states, such as the United States, Australia and the United Kingdom, primarily focused on principles of anti-discrimination. While this has been an essential step in the shift away from medicalized notions of disability, antidiscrimination laws have been insufficient in advancing international disability rights in general, and more specifically in promoting participation in the key policy domain of employment (Bell & Heitmuller, 2009; Blanck, 2000b; Blanck, Schur, Schwochau & Song, 2003; Burkhauser & Stapleton, 2003; Meager & Hurstfield, 2005). While antidiscrimination is one of the principles that is central to the Convention, the Convention goes beyond prohibiting discrimination and implies that governments have an active role in promoting the rights of people with disabilities. It has a substantive role in filling gaps and making existing laws relevant to people with disabilities by providing a holistic and comprehensive statement of human rights that includes a disability perspective (Melish & Perlin, 2007). Legislation and policies that exist

in national contexts need to account for people with disabilities and to ensure that they have the equal opportunities for participation.

At its heart, the Convention demands that states reconsider the underlying assumptions that form the basis of their policies and practices for people with disabilities. This implies moving away from a medical or social welfare model towards a social or human rights model (Melish & Perlin, 2007). In this way, the CRPD serves as an impetus for that triggers national action (Stein & Lord, 2008a). The word “transformative” has been applied to the potential of the Convention to achieve change at the national level (Kanter, 2003; Lord & Stein, 2008).

The Convention has already made disability more of a human rights issue than it had been before (Lang, 2009). This is important because addressing the inequalities that people with disabilities face requires a dramatic shift in the way that the world views disability (Mercer, 2007). This view is even beginning to change in the developing world, as Heap et al. (2009) point out in considering disability in South Africa. Katsui and Kumpuvuori (2008) note that the human rights approach has made an impact in political spaces in Uganda, although the impact has been less pronounced in social spaces. Additionally, in India, the rights-based approach has been increasingly used in special education policy, particularly in response to concerns about the Millennium Development Goals (Kalyanpur, 2008). Stein and Lord (2008a) emphasize the potential that the Convention has as an educational tool for teaching mainstream society about disability (Stein & Lord, 2008a). The educational power of the CRPD is particularly important for developing countries, because the Convention includes a mandate to include people with disabilities in social integration through inclusive development, though it also is a strong educational tool for industrialized countries.

While the Convention is a necessary international instrument, it is not sufficient for enforcing disability rights at the national level, and should not be perceived as a "panacea" that will end discrimination against people with disabilities (Lang, 2009). The Convention can only make this illegal, and it will be very difficult to enforce. Additionally, policy challenges go deeper than discrimination and they must be addressed before it can realize its goals (Lang, 2009). Russell (2002) makes this point specific to the employment of people with disabilities. She argues that addressing discrimination and attitudinal barriers are not enough; the individual framework that society in liberal welfare states is based on, particularly the "rational" economic and business practices within a class-based society, cannot provide equal opportunities or rights to employment. Policies need to address the structural inequalities present in society in order to increase equal opportunity, which implies reforms to the economic system in capitalist countries. Neoliberalism influences the capitalist systems in place in the United States, Australia and the United Kingdom, and it is necessary to find ways that the human rights approach can be promoted within such a framework.

4. **The Disability Human Rights Approach**

The approach that this dissertation adopts regarding human rights and disabilities has been labeled the Disability Human Rights Approach/Paradigm in the literature and has primarily been explained by Michael Ashley Stein and his various co-authors (Lord & Stein, 2008; Stein, 2007; Stein & Lord, 2008a, 2008b; Stein & Stein, 2006). This approach aligns with the contents of the CRPD and gives specific attention to people with disabilities as a marginalized group that should have their rights protected through a group specific treaty. The characteristics of the Disability Human Rights Paradigm are: it emphasizes the social

construction of disabilities; it takes a holistic approach to human rights; it recognizes that national governments are important for protecting human rights and allowing people to develop and participate in society; it emphasizes that all people with disabilities are equal and have the autonomy to direct their own development; and it focuses on allowing individuals to develop according to their desires (Stein & Stein, 2006). These characteristics allow people with disabilities to participate in society and live self-determined lives. While the CRPD helps to clarify what disability is and policy domains that need to be considered in order for them to achieve their rights, it is up to national governments to incorporate these into policy in a way that promotes equality of opportunity. People with disabilities have the same rights as all other citizens, but because of their historical oppression this needs to be explicitly noted.

The CRPD, through its use of the disability human rights approach, offers several suggestions for promoting equal opportunities for people with disabilities. The principles that form the core of the CRPD will be used to construct a conceptual framework (see Chapter 3 and Appendix B) for analyzing national disability policies. The framework will be used to analyze the extent to which human rights are evident in employment and welfare reform policy for people with disabilities in the United States, Australia and United Kingdom.

5. **National governments and human rights**

As outlined in previous sections, the CRPD, like other international human rights, requires the cooperation of national governments in order to be effective. Indeed, the existence of international human rights places obligations on states to secure those rights for individuals. Human rights norms have been largely internationalized. Thus, human rights are state-centric, which harkens back to liberal social contract theory, a political theory that focuses on individuals

who have equal rights (Donnelly, 2003b). Under international human rights, a state gains legitimacy by protecting those rights. However, this can cause problems because states can be violators as well as protectors of human rights. Therefore, human rights ask governments for certain goods, services and opportunities, as well as legal protection (Donnelly, 2003b). Parker (2008) refers to the national/international role division regarding human rights as “international rights, domestic responsibility.” That is, international human rights are no good unless implemented and protected by national legislation. Human rights are composed at the ideal level, including making arguments and justifications for them, but also have a place at the practical level of policy making and implementation (Ci, 2005). In human rights literature it is accepted that governments have a responsibility to protect the rights of their citizens, including in the domains of employment and income maintenance. Those rights are guaranteed because of the status of citizenship. In the remainder of this chapter, the question of whether those rights are accompanied by responsibilities is considered through discussions of welfare to work.

a. **Treaty ratification/signing**

States ratify international conventions for a number of reasons. One of the reasons is that they want to protect their reputation among the international community and be seen as willing to cooperate on future endeavors. This can be used to explain why there was such a large international community that wanted to recognize the human rights of people with disabilities: they wanted to be accepted within the global community. While many of the early adopters were from the developing world, one has to consider whether their adoption was just to pacify industrialized countries in order to receive international aid. These countries typically lack anti-discrimination legislation or adequate enforcement where it does exist, while the Convention

specifically mentions that inclusive development is one of its priorities (Geisinger & Stein, 2008). As of July 9, 2011, 149 countries have signed the Convention and 102 of these have ratified it (United Nations, 2011). Of the 30 members of the OECD, 29 have signed the CRPD (Switzerland is the only country not to sign from the OECD) and 21 have ratified it. Therefore, 119 of the signatories and 73 of the countries to have ratified the Convention are outside of the industrialized world.⁴ The CRPD also officially recognized that non-governmental organizations had a role in its development and had an impact on persuading national governments to ratify the treaty, particularly in developing countries.

Neumayer (2005) argues that it is beneficial to the implementation of human rights when a state ratifies a treaty where there is a strong civil society. Although treaties involve states in a human rights process that is difficult to show quantitatively, he argues that the qualitative evidence suggests noticeable improvements of the link between human rights and civil society. This dissertation provides additional qualitative evidence for how human rights have been implemented within a context that has been influenced by neoliberalism. One of the primary problems with human rights compliance is that they do not rely on market forces. Bodies that enforce and monitor human rights are different than most international institutions because they are directed toward the internal actions of a state rather than cross-national activity. Human rights must be implemented domestically and monitored internationally.

The Convention entered into force on May 3, 2008 (Lang, 2009). Both Australia and the United Kingdom have signed and ratified the Convention, while the United States has signed it.

⁴ Using membership in the OECD as an indicator of being a industrialized country is not necessarily the best measure, because it is difficult to define what it means to be an industrialized country. However, this supports the point that many of the parties to the Convention are not among the most industrialized countries.

Therefore, the Convention represents an international standard of rights that all nations should inspire to, especially those that have signed it. This means that these countries have an obligation to ensure that their policies are consistent with the rights described in the CRPD. While ratification legally obligates a state to adhere to the CRPD, signatories have a similar moral obligation (Parker, 2006).

As Melish and Perlin (2007) note, the government of the United States generally cites two reasons for not ratifying the Convention: (i) the constitutional constraints of federal government; and (ii) the perception that it will not offer additional rights protection and enforcement due to strong existing laws. However, the existence of strong laws is a good reason to ratify, not a reason not to. The question of what the nation would gain from joining the treaty should be left up to the disability community.⁵ Similarly, the concern about federalism is not a very strong reason not to ratify because that United States frequently adopts national legislation that states and local governments must implement. The United States has historically been a global leader on disability issues. Given these ideas, there is no reason for the United States not to ratify (Melish & Perlin, 2007). The National Council on Disability (2008a) affirms that disability policy in the United States is generally consistent with the Convention, although they note critical gaps, including in employment and income maintenance policy (more detailed analysis of the extent to which policy in the United States [and Australia and the United Kingdom] protects human rights is the focus of a subsequent chapter). The United States has not been party to international human rights treaties, historically, citing concerns with the legitimacy of international law. Still, since Australia and the United Kingdom have ratified the Convention

⁵ This involves complex debate around law, policy and culture, which deserve additional attention. However, this is beyond the scope of this dissertation.

and the United States has signed the document and has a moral obligation to uphold its principles, and because each country was an integral part of the development of the Convention, this dissertation takes the position that they have the obligation to be consistent with the CRPD. Future chapters draw on the CRPD as a useful framework of rights for national policies concerning people with disabilities.

b. **Obligations under the Convention**

Countries that are party to the CRPD have several obligations under the treaty. Most significantly, the Convention demands that states take actions to protect rights to the extent that is allowed by their available resources. This compels states to go beyond antidiscrimination. Under the Convention, states must also review their domestic law and policy to ensure that the principles founded in the Convention are also found in domestic laws and that domestic laws include all of the rights found in the Convention (Lord & Stein, 2008). Bickenbach (2001) argues that national disability policies are typically piecemeal and reactionary rather than an integrated part of social policy, which is what the CRPD requires. However, domestic policies have typically focused on anti-discrimination (Waddington, 2001), but, anti-discrimination is not enough to combat employment for people with disabilities because of the contradiction of focusing on equality of opportunity in a class-based economic system (i.e. inequalitarian) (Russell, 2002). The CRPD calls for nations to adopt a more comprehensive system of disability policies. Article 4 of the CRPD (United Nations, 2006) specifies nine obligations for states, including the need to realize the human rights of people with disabilities, which implies that they need to incorporate rights-based principles into disability legislation.

In addition to the Convention, there is an Optional Protocol which governments can sign and ratify. The Optional Protocol is a mechanism that allows individuals who believe that their rights have been violated to appeal to an international body after they have exhausted all possible recourses within their country. The Committee on the Rights of People with Disabilities is in charge of this, and they have been mandated to oversee implementation of the entire Convention (Lang, 2009). Therefore, states who sign the Optional Protocol have an obligation to address complaints from individuals under this Convention. Australia and United Kingdom have ratified the Optional Protocol and the United States has not signed or ratified (United Nations, 2011). The Optional Protocol does not influence the conceptual framework that this dissertation uses, although it does highlight national attitudes towards international human rights for people with disabilities.

Some states adopt reservations when they signed a treaty. A reservation is a statement that clarifies how a state interprets a treaty and the effects that the treaty will have on the state. However states, have not been allowed to adopt reservations that do not align with the purpose of the treaty (Mutua, 2007). For instance, when the United Kingdom ratified the CRPD, they did so with several reservations, including one regarding employment: that some forms of discrimination were to be allowed for positions in the military that demand certain levels of physical ability.

c. **Implementation challenges**

The CRPD faces many challenges to effective implementation and having a positive impact on the lives of people with disabilities, but they can be essentialized into one major implementation challenge: international rights are only as good as domestic

implementation (Parker, 2008). Even for those who ratified the Convention, effective implementation is dependent upon the commitment of each individual country (Mercer, 2007). In order for the Convention to be a success, it must be considered as something beyond “legislative advocacy or court-driven action” and embrace a more holistic view of disability advocacy that includes “participatory education, human rights culture-building and well-coordinated and well-conceived coalition work” in addition to a commitment to social change from the foreign assistance community (Lord & Stein, 2008, p. 479).

Effective implementation of the Convention depends on several domestic factors: the will of politicians and civil servants to promote the rights-based agenda and promote antidiscrimination; civil organizations that have influence on policy; systems of governments that utilize the principles of rule of law, transparency, accountability and due process; the collection and analysis of disability statistics; and that development of the efficient and effective mechanisms for providing disability services (Lang, 2009). This dissertation will consider the national policy context in each country, which includes many of those factors. Considering a range of policy perspectives and origins, this dissertation will assess how well each country supports and effectively implements the rights found in the CRPD.

Additionally, there are debates surrounding the legitimacy of human rights, especially with regards to cultural relativism and the idea that human rights should be relative to a specific culture rather than universal. Thus, challenges to the effective implementation of the CRPD are both practical and conceptual. However, many of the debates surrounding human rights and their legitimacy and/or cultural relativism are beyond the scope of the research populations involved in this research, primarily because this dissertation focuses on three well-developed,

industrialized countries.⁶ “[T]he norms and aspirations that underpin the assertion that disability is inherently a human rights issue is well-grounded” within industrialized countries; therefore, the premise of disability policy and practice in these countries aligns with the “intellectual and ideological hegemony” found within the CRPD (Lang, 2009, p. 275). The same cannot be said of developing countries where a culture of charity is still popular; the Convention faces a major barrier to enforcement in these countries where there is little understanding of the principles behind the social model of disability (Lang, 2009). Additionally, developing countries lack the resources to develop the appropriate infrastructures immediately and will have difficulty meeting the needs of its citizens under the CRPD because of the lack of resources (Lang, 2009; Mji, MacLachlan, Melling-Williams, & Gcaza, 2009).

d. **Rights and responsibilities**

As outlined in more detail the next section, rights have been accompanied by individual responsibility in recent years. For instance, within many industrial welfare states, welfare rights are now conditioned on the local legal and political context (Dean, 2007). This relationship between rights and disabilities is not a new phenomenon, but has been debated for the past several decades. During the “golden age” (Esping-Andersen, 2002) of the welfare state (1945-1979), when the welfare state was strong and provided welfare as a right, there was a tense understanding between the social liberals (as they are known in the United States) and social conservatives. Social liberals maintained that the state had responsibility for human welfare and should provide those rights, while social conservatives argued for policies that focus on mutual

⁶ It is acknowledged that these debates apply to cultural minority groups, such as Indigenous people in Australia and in the United States. This research does not include Indigenous participants (see the section on limitations in Chapter 3).

obligation and social protectionism. During the golden age, these rights were generally provided by the welfare state. In the 1980s, the right to citizenship and welfare entitlements began to be questioned by neoconservatives because it did not encourage individuals to support themselves and their families through paid employment and by neoliberals because it “undermined the ethical freedoms and correlated civic duties of the individual property-owning subject” (Dean, 2007, p. 6). Therefore, individual rights begin to be linked with individual responsibilities under neoliberal policies. The development of neoliberal policies and perspectives is the subject of the next section.

B. **Neoliberalism**

1. **Defining neoliberalism**

Neoliberalism refers to the shift that is taking place globally and in individual nation states where the role of the state has been diminished so that the mechanisms of the free market take a bigger role in public policy and service provision. The neoliberal approach prefers market solutions over government solutions to social problems (Swenson, 2008), and the purpose is to subordinate the state (Barnett, 2005). Rational economics and providing good business conditions for investors has become the focus of neoliberal governments. Harvey (2006) defines neoliberalism as “a theory of political economic practices which proposes that human well-being can best be advanced by the maximization of entrepreneurial freedoms within an institutional framework characterized by private property rights, individual liberty, free markets and free trade” (p. 145). The State's role is to preserve this framework and create markets where they did not exist before (i.e. by privatizing public utilities and transportation systems). Under the neoliberal perspective, individual needs are best provided for by participating in the labor market

so that individuals are responsible for meeting their own needs. Many social needs and services have been transformed into a commodity that can be bought and sold as efficiently as possible, and disability services are one example of a sector that has become increasingly dependent on market-like mechanisms that have been implemented to deliver these services. Only people who are able to purchase and access those services can secure them, so neoliberal policies have not provided equal access for everyone. The welfare state has been significantly reduced so that individuals have responsibility for their welfare where the state once protected it.

Neoliberalism comes from Milton Friedman and the Chicago school of economists, and is now a hegemonic system that has become a “natural” component of global capitalism (Harvey, 2006). Privatization, free markets and free trade and increased competition are features of national economies, which has resulted in free trade agreements, increased mobility of capital and regimes of austerity globally. In the United States this has been monetary policy that are anti-labor, policies that are anti-union, business deregulation and regressive tax policy (Wolfson, 2006). The employment rights that unions fought are not as strong under neoliberal policies, which highlights how rights have been subordinated to pro-business and free market interests. This dissertation focuses on identifying how disability human rights can be promoted and protected within a context of neoliberal policies.

Martinez and Garcia (2000) have identified five major tenets of neoliberalism: the rule of the free market; reductions in government expenditures for and involvement in social services; deregulation; privatization; and emphasizing individual responsibility. Neoliberal values can be seen in most political parties; “the free market, individual responsibility, personal choice, self-determination, privatization, outcome orientation and consumer responsiveness” can be seen in

most new policies (Swenson, 2008, pp. 626-627). This is true in most liberal welfare states (Beresford, 2005; Swenson, 2008). Politicians who favor neoliberal policies argue that by increasing economic growth and free-market policies, poverty can be diminished (Tang & Peters, 2006). The anticipated “trickle down” effect has not occurred and the gap between the rich and the poor has widened since neoliberal policies have been implemented in industrial welfare states (Beder, 2009; Harvey, 2006). The welfare to work policies that have transformed welfare benefits by placing time-limits on the length of time that a person can receive benefits and mandating work with an employment service provider is an example of this point. It emphasizes the perspective that encouraging a person to work is the best way for them to avoid poverty. These nations have also adopted many free-trade agreements (such as the North American Free Trade Agreement) in order to reduce barriers to international trade and create flexible employment opportunities. Neoliberalism comes out of “neoclassical economics and liberal political philosophy, [it] contends that where the state offers citizens minimalist social protection from private market forces, economic development flourishes and general incomes will be higher” (Lobao & Hooks, 2003, p. 520). Therefore, governments draw on neoliberal values in an attempt to more effectively improve the livelihood of the general public.

In practice, neoliberalism allows the elites in society to increase their power (Fuller & Geddes, 2008). Barnett (2005) describes neoliberalism as a class project; that is, the policies are designed to further benefit the upper classes. Under neoliberalism, the rich get richer, both within individual nations and within the global order. For instance, the distribution of income becomes more skewed towards the elites under neoliberal policy. In the United States, the top one per cent of earners received eight per cent of the national income at the end of World War II and that rate

remained the same for three decades, until neoliberal policies were adopted. By the year 2000, their share of income reached 15 per cent. For the top 0.1 per cent of earners, the numbers went from two per cent in 1978 to just over six per cent in 1999. A similar trend can be witnessed in the United Kingdom, where the top one per cent of earners have doubled their share of income over the last 20 years (6.5% to 13%) (Harvey, 2006).

Neoliberalism can be studied in a number of ways. Many authors have focused on the changes that neoliberalism has made to cultural life, especially through theories of queerness and disability (e.g. McRuer, 2006; Sender, 2006). Others focus on issues of global development; for instance, developing countries have been required to incorporate neoliberal policies in return for development aid from Western countries, and the United States has implemented neoliberal practices in the restructuring of Iraq (e.g. Chomsky, 1998; Harvey, 2006; Yeates, 2002). Still others focus on the impact that neoliberalism has had on specific policy domains (e.g. Apple, 2001; Hursh, 2007; Mitchell, 2003 all discuss the impact that the neoliberal approach has had on education policy). This dissertation focuses on the impact that neoliberalism is having on liberal welfare states, and the shifting dimensions of social rights that accompany welfare reforms that move people from welfare benefits and into the labor market. It explores how well different countries have been able to incorporate the human rights approach into neoliberal policy contexts.

2. **Neoliberalism and the welfare state**

a. **The welfare state**

Esping-Andersen (1990) provides the seminal work regarding welfare states, noting that the developed world (i.e. OECD countries) divides into “three worlds of

welfare”: liberal, conservative, and social democratic. Liberal welfare states are associated with reliance on the free market and individualism and benefits are subject to strict means-testing and are typically low. The United States is considered to be an “ideal type” of liberal welfare states. Australia and the United Kingdom are also considered to be liberal welfare states.⁷

While a detailed analysis of welfare state literature is outside of the scope of this dissertation, it is important to note briefly some of the key critiques of this work. Esping-Andersen’s (1990) typology has been credited with starting “the welfare modeling business” (Abrahamson, 1999). However, Bambra (2005) notes that the primary reasons for critiquing the typology are that it only includes a small range of countries (18, all from the OECD); uses a limited methodology; produces regimes that have questionable usefulness; places too much emphasis on income maintenance and does not consider welfare service provision; and does not consider gender in the analysis. The gender dimension has been considered by a number of studies that incorporate ideas of social care (Bettio & Plantenga, 2004; Bianchi, Casper, & Peltola, 1999; Daly, 2000; Daly & Lewis, 2000; León, 2005; Sainsbury, 1999; Williams, 2001). Others questioned the number of regimes that were developed; subsequent analyses have typically identified between two and four ideal types (Abrahamson, 1999), with a southern European model a common addition (Bonoli, 1997). Regardless of the number of types, typologies are not always the most useful tool because depending on the policy domain or output under consideration, analysis can lead to the conclusion that a particular nation fits within different regimes (Goodin & Smitsman, 2000). There are also questions about the methodology that Esping-Andersen used. He focused on the dimensions of stratification and

⁷ Although there are challenges and debates around this classification, this dissertation will treat these countries as liberal welfare states.

decommodification within contemporary welfare states, while others (Bettio & Plantenga, 2004; Bonoli, 1997) use different dimensions of welfare arrangements (i.e. service delivery schemes) as inputs.

While these critiques are an important addition to this field, this dissertation supports the usefulness of welfare state typologies in identifying nations that are similar for comparative analysis. The United States, Australia and the United Kingdom were chosen because of their similar approaches to social policy.

b. **Neoliberalism and the welfare state**

As modern welfare states developed following the end of World War II, social rights, such as the right to employment and welfare services, were included in state institutions. Welfare states filled the gaps where the market did not meet the needs of citizens, including unemployment insurance and medical assistance for those in need. Under the Keynesian welfare state, full employment was necessary for capitalism to grow, which required government intervention (Martinez & Garcia, 2000). Neoliberalism challenges the idea of a welfare state and government intervention. The neoliberal approach focuses on promoting the free market and improving the economy rather than securing social rights. As neoliberal governments focus on the economics of social policy debates, “social policy’s traditional commitment to altruism, social care and social rights have been relegated” (Tang & Peters, 2006, p. 572). According to proponents of neoliberalism, the welfare state is associated with poverty traps and a culture of dependency because the welfare state was not designed for the new economy (Silver, Shields, Wilson, & Scholtz, 2005). “Neoliberals maintain that rolling back the frontiers of the state, through...deregulation, marketization and privatization, government

withdrawal, and public sector austerity, is necessary to make space for reinvigorated market forces and an/ enlarged private economy” (Peck, 2002, p. 339).

Therefore, in many industrialized liberal democracies, social policy goals are less prioritized when compared to economic goals because the welfare state is forced to prove that it is not just a luxury and an unsustainable burden to competitiveness. This means that welfare is no longer justified because of the impact that it has on the well-being of citizens, rather it must be justified as an investment in economic performance. This is related to retrenchment. Pierson (1996) explains that retrenchment of is a process that follows the long period of welfare state expansion. Because the goals of policymakers and the policy context are different, one can expect major structural changes to the welfare state, especially with cuts and efforts to reduce welfare expenditures. Welfare state retrenchment includes increased reliance on means-tested benefits; a shift away from public responsibility and towards the private sector; and changing the rules for benefit eligibility. Although Pierson does not find evidence of such retrenchment through aggregate expenditure levels in his study of the German, Swedish, British and American welfare states, he does find substantial qualitative evidence that suggests that they have retrenched. Hay (2005) comes to a similar conclusion. Other studies are able to show that retrenchment has occurred by using expenditure data that focuses on social service and employment (Clayton & Pontusson, 1998). Korpi and Palme (2003) argue that retrenchment also involves reductions in social rights. For people with disabilities, retrenchment means less expenditure on social service programs, reduced quality of the services that do exist and fewer social rights.

It is the logical to place some blame for welfare state retrenchment on globalization because high levels of welfare expenditures are not consistent with a competitive economy (Korpi & Palme, 2003; Swank, 2005). While increasing economic integration is a feature of neoliberal policies, Hay (2005) is not convinced that neoliberalism demands that welfare states have to retrench their social expenditures. He shows that there is a large body of work which demonstrates that mobile investors depend first and foremost on the education and skill level of a workforce in a labor market before factors such as low wages and flexibility. For people with disabilities it is imperative that they are able to obtain the education and skills that employers are looking for so that they can compete in the market. Investors and businesses are willing to have higher (tax) expenditures in a country with a highly trained and skilled workforce (Hay, 2005). Thus, nations can afford to improve the workforce through social expenditure; high expenditures do not mean less investors. Therefore, the economic orthodoxy associated with neoliberalism has been over exaggerated, it is necessary to question whether welfare retrenchment is a necessary response. Competitiveness would be enhanced if the welfare state was once again justified by the improvements that it makes to citizens.

Neoliberal policies should pay more attention to factors such as the lack of enough good jobs and the increase in insecure employment if it wants to address the well-being of citizens (Silver, et al., 2005). Where there is a lack of good jobs, it becomes even more difficult for people with disabilities to find employment. The increase in insecure and precarious employment is a particular concern because research has shown that people with disabilities have a high incidence of obtaining this type of work (Wilton, 2006). The incidence of insecure and precarious employment is a particular concern for the study because welfare-to-work programs

have been associated with these kinds of jobs (Evans, 2007). An example from Australia shows how courts have sided with neoliberal reforms rather than human rights. In *Re Chin*, the courts held that the obligation to accept “any work” in order to be eligible for Disability Support Pension is consistent with both the Australian Disability Discrimination Act and international treaty obligations. The judge in that case found that administrators’ discretion could be used to decide whether a beneficiaries work activity was acceptable (Carney, 2006a). Ensuring decent work opportunities that people with disabilities exercise choices about is an aspect of welfare reform that is of crucial importance to the human rights approach and is revisited in the individual country chapters.

However, there is not a strong counter-ideology to neoliberalism and people in liberal welfare states suffer the most because of poor welfare benefits and social services, but also from marginalization and oppression from the labor market, businesses and the global economy (Aspalter, 2008). Under an employment market influenced by neoliberalism, there is little regulation or interference from the government to provide employment assistance for people with disabilities who may need it because they are not viewed as competitive employees. Furthermore, if these individuals are not able to obtain employment, there are few welfare and social service programs available. The dissertation explores whether governments could implement policy that will help these individuals become competitive in the labor market and encourage the market to see them that way. The next section of this chapter reviews some of the ways that governments have attempted to increase the competitiveness and participation of people with disabilities, especially in recent reforms in each of the three countries that are

designed to facilitate the move of people with disabilities off of welfare benefits and into paid employment.

The liberal state will likely prosper as an institution under neoliberal globalization. It has transformed into a workfare state that promotes liberal free market economics and the flexibility and innovation needed to prosper in the global market with policies that punish people who do not participate in the market (O'Riain, 2000). This state may prove to be a universal force in the economy, though it is most advanced in the United States and United Kingdom. The countries involved in this dissertation have implemented welfare to work or workfare as punitive measures for people with disabilities by requiring them to participate in employment or work-related activities rather than having full access to disability benefits.

c. **Neoliberal reforms to national welfare states**

While the welfare state in the United States, Australia and the United Kingdom have existed since the end of World War II, the reforms that have been implemented since the 1990s are particularly important to this research. Significant shifts have retrenched the reach of the welfare state and placed more emphasis on participation in the labor market. For instance, in the United Kingdom a series of “New Deals” were implemented that require work-related activities of beneficiaries. This research will focus on the New Deal for Disabled People policy that was incorporated into Pathways to Work and required disability benefit recipients to participate in these activities. Indeed, each of these countries has implemented reforms with very strong neoliberal characteristics, including conditional benefits and an emphasis on employment. These reforms apply to both the general population and people with disabilities and are concerned primarily with moving people off of welfare benefits and into the labor market.

In 1997 Tony Blair became Prime Minister of the United Kingdom and embarked upon a program of welfare reform, continuing the neoliberal approach to policy (albeit to a slightly lighter extent than previous governments tracing back to Thatcher in 1979). His New Labour government performed a wide ranging review and reform of most social programs. The main goals of the reforms in the United Kingdom WERE to reduce the incidence of poverty and promote employment (Freud, 2007). The government introduced a series of active labor market programs, labeled “New Deals,” to address specific groups of people (Evans & Millar, 2006). One of the challenges of the New Deals was to have an impact on groups that are regarded as the hardest to serve. While these programs were meant to increase social inclusion, they had the effect of “further marginalization of those who cannot engage in paid work” (Baldwin, 2006, p. 92). One of these groups was people with disabilities, and people with disabilities who received benefits faced work requirements under *Pathways to Work*. The government introduced the Employment and Support Allowance to replace Incapacity Benefits. The new plan was less complex and paid people for participating in work-focused interviews, so that benefits were conditional on their participation in a program that will help them find work. Benefit levels could be periodically reduced if a claimant did not meet the agreed-upon responsibilities without good reason. People with disabilities who received benefits faced work requirements that incorporate neoliberal policy values and principles, including emphasizing employment conditional benefits.

Similar policy changes occurred in Australia. In 2000, the Reference Group on Welfare Reform, commonly known as the McClure Report, provided the rationale for welfare reform in Australia. They noted the problem of welfare dependency and the need to promote higher levels of employment. The McClure report offered five recommendations for improving welfare

reform: (i) establishing an individualized service provision; (ii) reforming income support to be more simple and responsive to individual needs, including moving from conceptions of “income support” to “participation support” so that people are better able to participate in employment; (iii) incorporating incentives and financial assistance for people in or considering employment; (iv) adopting a system of mutual obligations that makes it clear that governments, businesses, communities and individuals have responsibilities to one another; and (v) building social partnerships that allowed communities to increase their capacity (Reference Group on Welfare Reform, 2000). Mutual obligation has been a part of Australian social policies since the 1980s (Cass, 1988). Individuals negotiate Activity Agreements that specify their obligations, which could include training, volunteer activity, job search requirements, or paid employment. In 2006, the principle of mutual obligation was extended to people who apply for the Disability Support Pension. Under the reforms, only those who can work less than 15 hours per week are allowed onto the Disability Support Pension (DSP). This reduces the number of people qualify, because people who were assessed as being able to work up to 30 hours per week were eligible under the previous rules (Mendes, 2008). People with disabilities who are assessed as being able to work more than 15 hours a week are placed onto Newstart Allowance or Jobseekers Allowance rather than DSP. When the reforms were announced, it was estimated that these rules would move 60,000 applications for Disability Support Pension onto unemployment allowances (which are paid at a lower rate) per year. People on Newstart Allowance lose 60 cents for every dollar earned over \$250 every two weeks, while those on DSP lose only 50 cents (National Disability Services, 2009). Not only do the reforms move people with disabilities onto a benefit that pays a lower rate, but if a beneficiary is able to work they lose a higher proportion of their earnings than

they would on the DSP. This highlights the neoliberal values underlying these reforms; participation in the labor market is encouraged (even mandated) over benefits and benefits have been cut to encourage more employment.

Reforms in the United States were guided by rising welfare caseloads and concerns that welfare programs promoted a “culture of dependency” on government aid. Lawrence Mead (1997) argues that the best way to fight poverty was through a system of “new paternalism” whereby government had to actively encourage labor force participation for beneficiaries in order to combat poverty and instill work habits and ethics. These reforms occurred in 1996 through the Personal Responsibility and Work Opportunity Reconciliation Act, which instituted a five-year limit on social assistance benefits and requires work of beneficiaries. While the reforms compelled single mothers and young, unemployed men to actively seek employment in return for welfare benefits and limited the length of time during which they could receive benefits, they had little effect on people with disabilities. The passage of the Americans with Disabilities Act in 1990 was intended to eliminate discrimination against and make workplaces accessible to people with disabilities. However, after nearly a decade of little or no improvement in their employment situations (Blanck, 2000b; Burkhauser & Stapleton, 2003), Congress enacted the Ticket to Work and Work Incentives Improvement Act (TTW) to encourage people with disabilities to seek work. This piece of legislation provides a “ticket” to disability beneficiaries through the Social Security Administration; the ticket can be used to obtain employment services at participating providers. The Act also includes provisions to extend healthcare benefits and provides more efficient return to benefit rolls in an effort to encourage people with disabilities to enter the labor market. Neoliberal influences can be seen in this policy because it emphasizes

participation in the labor market and provides incentives to do so. While participation is not mandatory, the incentives make employment a more attractive option than remaining on benefits. The neoliberal emphasis on participation in the labor market as the best way to meet the needs of an individual is clear.

3. **The impacts of neoliberalism**

The impacts of neoliberalism have been wide ranging and deep, especially for people with disabilities in the United States, Australia and the United Kingdom. Neoliberalism has resulted in the destruction of the prior “divisions of labor, social relations, welfare provisions, technological mixes, ways of life, attachments to the land, habits of the heart, ways of thought, and so on” (Harvey, 2006, p. 146). Nearly every aspect of social policy has been affected. This dissertation focuses on the impact of neoliberalism on employment policy and welfare reform for people with disabilities in light of the recent developments in disability human rights, as outlined in the first section of this chapter.

Neoliberalism, with its focus on the economy and business practices, has not had the predicted positive impact on the world economy. The average growth rates of the world economy were 3.5 per cent during the 1960s and 2.4 per cent during the 1970s, but only 1.4 per cent in the 1980s and 1.1 per cent for the 1990s (Harvey, 2006). Neoliberalism has witnessed deteriorating economic conditions, including stagnant wages, slower economic growth, and additional worsening of the distribution of income towards the rich (Wolfson, 2006). These conditions impact on people with disabilities because their relative economic situations have decreased since they are typically among the lower classes on income distribution. Furthermore, slow growth in the economy means that fewer opportunities for employment have been created.

This dissertation highlights how national policies have made it more important for people with disabilities to pursue the opportunities that are available and encourages in this business to create additional opportunities.


Importantly, neoliberalism has increased individual responsibilities and self-sufficiency and further research is needed into how people with disabilities are able to incorporate their human rights into neoliberal policy contexts. Self-sufficiency is a valued concept to neoliberals and helps to link rights with responsibilities. The phrase “no rights without responsibilities” (especially as used in the United Kingdom) shows that many people have labor market responsibilities in order to continue receiving benefits. Self-sufficiency is a key component of independence. People not only have the right to employment, but the responsibility to make the most of that right and be self-sufficient in the market. On the other hand, the disability rights approach focuses on autonomy and self-determination in order to direct services and promotes interdependency as a form of independence (Pearson, 2000; Reindal, 1999; Stainton, 2002). Pearson (2000) notes the contradictory discourse between the market and social justice/human rights in her study of direct care payments for people with disabilities and identifies that the discourse related to the market has more influence in policy development. Proponents of neoliberalism believe that employment is the best means to self-sufficiency and is a key responsibility of the poor; responsibility is privatized to families and individuals, who are trusted to take advantage of employment opportunities. This means that unemployed individuals are expected to look for and obtain employment rather than relying on welfare benefits. Individuals have the responsibility to provide for the needs of families, because under neoliberal policies those needs will not be adequately met through the welfare system. Most social welfare agencies

conceive of self-sufficiency as being off welfare, and it is this outcome that matters most (Lobao & Hooks, 2003). The disability community favors self determination and making choices for one's own future as a preferred outcome. This recognizes that governments also have the responsibility to ensure that supports are in place so people with disabilities can take advantage of rights.

Many policy reforms in the past few decades have focused on individual responsibility and self-sufficiency, and individuals are encouraged to meet their needs through participation in paid employment. At the same time, disability rights have focused on increasing participation and self sufficiency of people with disabilities. However, such notions have been constructed differently. The contradictory discourses used by the neoliberal and human rights approaches are based on the same language but refer to different concepts. Figure 1 portrays the way that each approach uses common terminology with the same ultimate goal: labor market participation. For neoliberalism, the focus is on the individual and self-sufficiency, whereas the human rights approach recognizes the importance of interdependency and allowing people with disabilities to make decisions about their participation in employment.

Tang and Peters (2006) provide examples on the influence that neoliberal policies can have on marginalized groups by focusing on the experience of women in Canada. Led by women's organizations concerned with neoliberal policies that reduce equality, Tang and Peters began to make use of the United Nations Convention on the Elimination of All Forms of Discrimination against Women at a domestic level. Organizations of women submitted their own monitoring report to the United Nations under the Convention, arguing that the policy changes they had experienced are examples of what the Convention was trying to prohibit. That is,

FIGURE 1: COMMON DISCOURSE, DIFFERENT MEANINGS

Neoliberalism	Human Rights
Independence - Self-sufficiency	Independence - Autonomy - Self-determination - Interdependence
Responsibility - “no rights without responsibilities” - Mutual obligation or work requirements	Responsibility - Need for supports - Equal opportunities
	

restrictions on their rights, specifically cuts in funding and access to legal aid, time limits on social assistance and reductions in human rights protection. In 2003, the UN monitoring body found that Canada, in particular the province of British Columbia, was not complying with the Convention and made several recommendations for the Canadian government. These recommendations included urging Canada to respond to these concerns specifically and they made an appeal to the International Olympic Committee to reconsider the city of Vancouver's bid for the Winter Olympics in 2010. They argued that a country that does not meet its own obligations under human rights law does not deserve the games because public funding could be put to a better use. While these actions have not led to changes in British Columbian/Canadian policy, they have resulted in promises for additional resources for women. The authors conclude by arguing that that this Convention has value because it allows the international community to place pressure on national governments to address social issues. It allows “them to bring local

issues to global levels, thereby strengthening the fight against neoliberal policy” (Tang & Peters, 2006, p. 580). This is an example that people with disabilities could turn to under the CRPD where policy reform constrains their rights or opportunities to participate in society. The potential of an international instrument to be used to put pressure on or remind policymakers of their obligations is important if used effectively. To avoid this situation, policymakers need to consider how to best promote human rights for people with disabilities as they consider additional reforms.

Other research has highlighted the need to focus on individuals within the neoliberal reforms. For instance, Wolfson (2006) notes that neoliberalism is directly related to the problems of Social Security in the United States. He points out that people who argue that there is crisis in the Social Security system believe this because they think neoliberal conditions will further contribute to the economic conditions that will lead to a shortfall in Social Security revenue. He argues that the neoliberal approach to fixing Social Security is to allow the public Social Security to be eliminated and privatize the current system with private accounts. In his view, reducing the neoliberal influence on economic conditions will also eliminate the threat to the Social Security system. The real issue is finding a way to make the economy work for workers by finding a way to achieve a system of full employment with strong growth and wages rather than focusing on business and the elites. Making the economy work for workers is an important concept for people with disabilities, and this dissertation tries to incorporate the human rights approach into neoliberal policy contexts in an effort to promote employment opportunities for people with disabilities. Similar to the idea that Social Security might not be in such a crisis if neoliberalism was able to find a way to take account of workers in addition to elites, if such compromises were

available to employment policies, people with disabilities would be able to increase their rates of participation.

Silver et al. (2005) followed 24 individuals for two years following their job loss due to neoliberal/structural employment changes in Canada. The participants had three outcomes: a reintegrated group, a vulnerable group and the excluded group. Nine individuals were able to reintegrate into a stable job, 10 individuals experienced precarious and unstable employment that did not meet their social and financial expectations, and five were unable to reintegrate with the workforce despite wanting to. One of the points that the authors stress is that neoliberal conceptions of social inclusion did not take into account quality of employment an individual is able to obtain. The analysis shows that unemployment services and income supports are important for success of restructured workers. The authors suggest that it is important that people who become unemployed are able to maintain their economic sustainability, through additional human capital development programs and stronger employment assistance. This study suggests the importance of policies to support individuals and their ability to participate in the labor market when neoliberal reforms are implemented.

The impacts of the neoliberalism can be summarized by considering that neoliberalism embodies the recommodification of labor; that is, market participation is required for an individual to meet their needs and be considered a citizen. While governments have adopted this approach to varying degrees, individual needs are now the responsibility of the individual and they receive minimal government assistance. Where government assistance does exist it typically offers a minimal amount of protection and has been linked with the labor market through

employment-related conditions. Neoliberal approaches require individuals to participate in the labor market in order to achieve a decent standard of living.

The responsibilities that are a part of the neoliberal approach competes with the human rights approach that asserts that employment and income maintenance programs are human rights that people are entitled to without conditions. However, neoliberalism and the human rights approach both recognize that employment is a crucial policy domain, which provides the opportunity to identify policies that allow the human rights approach to be promoted within a neoliberal policy context. While proponents of neoliberalism assert the responsibility of individuals to participate in the labor market, the human rights approach asserts that the government has the responsibility to offer employment programs and services so that they have equal opportunities to participate. This dissertation explores these two approaches, especially in relation to welfare to work in liberal welfare states, especially with regard to the gap and tension that Figure 1 shows with regard to policy rhetoric and implementation.

C. **Employment and Welfare for People with Disabilities**

Employment is a central piece of both the human rights and neoliberal approaches to policy since each has the increased employment of people with disabilities as one of its goals underlying the approach. For human rights, this goal has to do with increases in choices in life domains and participation in society. Conversely, neoliberal policy favors increased employment of people with disabilities primarily due to economic and rational reasons.

Despite the importance of employment for people with disabilities (see later subsection), their relative employment levels are lower than the rest of the population. Many industrialized welfare states have implemented “activation” policies to encourage their participation in the

workforce (Carcillo & Grubb, 2006; OECD, 2003; Tergeist & Grubb, 2006) but income support/passive labor market policies (i.e. benefits) still dominate domestic disability policy. National governments in the United States, Australia and the United Kingdom have enacted various reforms in order to move people from benefits to work by implementing policies that link welfare to employment. The following subsections will examine the importance of employment policy, the situations of people with disabilities in employment and benefit systems in liberal welfare states, the policy options that are available to national governments, and policy reforms that have been proposed to improve the policy context for people with disabilities.

1. **The importance of employment**

Most people with disabilities can work when given the opportunity. The reasons they want and need to work are to earn an income, socialize and build self-esteem (Heron & Murray, 2003). The social aspect of work gives people with disabilities the chance to meet new people and reduces their social isolation, frustration, and loneliness. Work is where people socialize and become involved in society: it is an important site of social interaction (Kenworthy, 2004, p. 2). People also value work because it adds structure to their lives. Psychologically work offers a chance to contribute to society, build pride, confidence and positive attitudes (Turton, 2001).

Still, the most important reason for work is the economic impacts that it has (Kenworthy, 2004). Working allows people to earn an income to meet their needs and cover the cost of having a disability. Employment is especially important for people with disabilities, because, as Sen (1999) argues, they face a double-edged sword in the economy. First, they are up against an “earnings handicap,” which includes lower employment rates along with lower compensation

when they are employed. The other side of the sword is the “conversion handicap,” which recognizes the fact that, in order to have equal standards of living, people with disabilities require more income and resources than their able-bodied counterparts. The idea of a conversion handicap is especially important with regard to neoliberal and human rights approaches because it suggests that in order to achieve equality, some people with disabilities require additional resources. Participation in the labor market, as currently enacted, is not sufficient to meet their needs. This suggests the need for a disability-specific income allowance, and this conceptualization plays an important part in this dissertation.

One of the most compelling reasons for governments to actively support employment opportunities for people with disabilities is the impact that this group can have on the economy. In a world where domestic economies are now firmly entrenched in global economic competition, nations such as the United States, Australia and the United Kingdom need to mobilize people with disabilities to participate in the labor force (Ozawa & Yeo, 2006). Research demonstrates that low rates of labor market participation by people with disabilities affects the overall economy – with unemployment of people with disabilities contributing to the loss of between 1.37 and 1.95 billion US dollars in global Gross National Product (Metts, 2000). This is a significant loss of productivity for the global economy – one that nations simply cannot afford (Parker & Owen, 2009).

2. **The employment situation of people with disabilities**

The OECD (2003, 2009b; 2007) reports that only around half of all people with disabilities who are of working age are engaged in the labor market. In some developing countries unemployment can be up to 80% (Yeo, 2001). Unemployment rates are two to three

times as high as for people without disabilities. As noted earlier, employment rates of people with disabilities are generally less than half; the OECD average for the mid-2000s was 43 per cent (OECD, 2009b). People with disabilities face a double disadvantage in the global economy because they also earn less than people without disabilities. Even when they are employed, people with disabilities are more likely to only work part-time, have low relative income levels and/or live in or near the poverty level. The disposable income of people with disabilities is 12 per cent lower than national averages (OECD, 2009a, 2009b). The specific employment context for people with disabilities in the United States, Australia and the United Kingdom is detailed in the appropriate subsequent chapters.

There are a number of barriers that prevent people from entering the labor force. Singley (2003) classified them into personal barriers, family barriers, community barriers, workforce-related barriers, and systems barriers. Schur et al. (2005), in examining the United States, add corporate culture to the list of barriers. They conceptualized corporate culture as the assumptions that exist within most organizations; the values that guide the organization; and physical manifestations of that culture in the organizational environment. They found that corporate culture is organized around the idea that employees are able-bodied to promote efficiency. If corporate culture took the view of universal accommodations, architectural and attitudinal barriers could be removed for all employees. The barriers of corporate culture suggest that the neoliberal approach's emphasis on efficiency and the most economical practices ignores the needs and rights of marginalized workers. If these needs were addressed in a more universal manner it would be to the benefit of all employees. More detailed consideration of the barriers that exist in each country can be found in the later chapters.

3. **People with disabilities and benefit systems**

Related to the low unemployment levels of people with disabilities is the rise in the number of people receiving disability benefits in OECD countries. For the United States, Australia and the United Kingdom to disability benefit recipients the rates are 5.9 per cent (2006), 5.4 per cent (2007) and 7 per cent (2007), respectively. For the United Kingdom, this rate has remained the same since 1995, but for the United States and Australia, there has been a rise from 4.7 per cent and 4.2 per cent, respectively, since 1995 (OECD, 2009b). One of the main goals of the neoliberal approach to policy was to reduce the number of people claiming disability benefits, but in liberal welfare states this rate has either remained the same or increased.

A major contributor to rising levels of disability benefits is that many OECD countries have a prevailing culture that favors disability benefits. In this culture, medical assessments are used to decide who is eligible for benefits, and this usually means that if a person with a disability is granted eligibility that they are classified as unable to work, even if they do have some work capacity. It is largely an all or nothing culture, even though people with partial work capacities can potentially make a positive impact on the labor market. Under recent reforms, many countries have recognized this and stress policies that facilitate moving this population into the labor market, even if this means part-time employment. National governments are keen to move people off of disability benefits, because of high spending on these benefits. The OECD average is that governments spend 1.2 per cent of GDP on disability benefits, which is 2.5 times the amount they spend on unemployment benefits (OECD, 2009b). A related problem is that people who take long-term sickness benefits have a high probability of moving to disability benefits. Research has shown that only 2 per cent of people who receive disability benefits

eventually return to work (OECD, 2009a, 2009b). Reforms in countries such as the United States, Australia and the United Kingdom are geared towards intervening in benefit eligibility so that people who have work capabilities are required to exercise those capabilities rather than receive full benefits. Interventions are important because once a person enters the disability benefit rolls, it is unlikely that that individual will exit the rolls because of employment. However, as this research points out, these interventions need to be implemented in a way that simultaneously protects human rights and removes barriers to participation.

Rising disability benefit claims and moving some of those claimants into the labor market was the focus of a 2009 High-Level Forum on Sickness, Disability and Work hosted by the OECD in Stockholm. Combined with the aging population, high levels of unemployment and the economic recession, growth in benefit claims represents an unsustainable situation (Wiseman, 2009). The Forum considered policy solutions and evidence from national interventions. Some countries have been able to introduce structural reforms that emphasized early intervention in order to bring down rates of inflow to disability benefit. This is related to reducing sickness absence from the workplace, and better monitoring practices, structural reforms that discourage employers from placing people on sick leave benefits, better supports for employers, strengthening anti-discrimination and quota legislation against employer circumvention, and introducing incentives for medical professionals to minimize inappropriate sick leave are strategies that could reduce sickness absences (OECD, 2009a, 2009b; Wiseman, 2009). In his remarks, Wiseman (2009) stated that despite the “diversity of national systems and situations” there is a “substantial agreement on where we should be headed.” Participants in the Forum all agreed that it was important to find ways to activate disability beneficiaries/claimants. The

Forum signifies that neoliberal approaches to disability policy (i.e. work requirements and conditions for benefits) are now widely accepted in liberal welfare states. Therefore, the task becomes finding ways that policy can move in this direction but still protect the rights of people with disabilities.

4. **Labor market policy**

a. **Types of policies**

Labor market programs involve public funding for interventions in the labor market to correct structural inequalities. The OECD (2003) classifies them as either active labor market programs (ALMP) or passive labor market programs (PLMP). Active programs are strategies that promote the integration of people into the labor force. Passive programs focus on income replacement rather than work opportunities. Many benefit and income maintenance schemes fit into PLMP (EIM Business and Policy Research, 2002). The distinction between these programs is not as black-and-white as the OECD portrays them. Schemes that are classified as passive are often needed to support active policy; for instance, the idea of an allowance that would provide extra income for people who are working with falls somewhere between the two since it involves income replacement alongside participation in the labor market.

In 2003, the OECD released a report entitled *Transforming Disability into Ability: policies to promote work and income security for disabled people* that stresses the importance of developing active labor market policies (OECD, 2003). Active labor market policies take action to encourage people to engage in the labor market (“integration” in the report) whereas passive policy does not require anything of recipients (“compensation”); many benefit systems are considered to be passive. This report found that the ideas of mutual obligation (as they were

being implemented in Australia) and welfare to work were an acceptable, even recommended, strategy. As an institution that focuses on conservative economic policy influenced by neoliberal ideology this is not a surprising recommendation. Moving people from benefits and requiring them to participate in the labor market is a key feature of neoliberalism.

The OECD further divide active labor market programs into specialist and mainstream programs. The difference between most specialist and mainstream programs is the clients they target. In this case, specialist programs are those that focus only on people with disabilities. Specialist ALMPs include schemes for counseling and job search assistance, vocational rehabilitation, subsidized employment, supported employment, sheltered employment, and incentives to start an enterprise. Mainstream ALMP's include many of the same ideas, but are geared towards an audience wider than just people with disabilities. They could be counseling and job search assistance, training, recruitment incentives, employment maintenance incentives, direct job creation, and incentives to start an enterprise (EIM Business and Policy Research, 2002). Despite widespread agreement that more active policies are necessary, funding for them is low, especially relative to spending on benefit programs (OECD, 2009a, 2009b). The Australian Council of Social Services (ACOSS, 2005a) made this argument as reforms were being passed to extend mutual obligation to people with disabilities. In their view, the government did not invest enough in employment programs and services to allow the policy to succeed. As governments implement a neoliberal approach that focuses on labor market participation for people with disabilities, they need to ensure that the policies and programs that are developed to support them, are adequately funded and give people equal opportunities to succeed. As funding for benefits declines, some resources may need to be diverted to employment programs that support

the rights and opportunities of individuals facing work requirements. It is unclear how well current employment programs promote the human rights of participants, and this dissertation seeks to fill that gap and identify best practices and areas for improvement in each country.

In addition to active labor market programs, some of the other approaches suggested by the OECD as effective strategies to promote the employment of people with disabilities are legislative policies (anti-discrimination legislation, quota obligations), the general work of Public Employment Services (PES), and persuasion policies (public awareness campaigns) (EIM Business and Policy Research, 2002; OECD, 2003). The three countries in this dissertation utilize all of these strategies (except for quota systems). Each of these approaches to promoting disability employment embody aspects that are contained within the CRPD. Legislative policies that focus on antidiscrimination are a prerequisite for a rights-based policy context, and non-discrimination is one of the founding principles of the Convention. Disability employment through PES is an example of mainstreaming services for people with disabilities rather than segregating them. This requires that PES adopt a view that is more inclusive of a wide range of human capabilities; adopting this view aligns with the CRPD principles of respecting difference, inclusion in society, equality of opportunity and accessibility. Similarly, persuasion policies promote respect for difference, non-discrimination, and inclusion in society. The Convention includes provisions that governments are to actively raise awareness of and promote the rights of people with disabilities (United Nations, 2006, Article 8). Where these rights-based principles are effectively implemented, these employment strategies offer the beginning of neoliberal policies that account for human rights.

The strategies that national governments, especially those in industrialized welfare states, use to improve the opportunities of people with disabilities can be classified a number of ways. Whitehead et al. (2009) divided policies into two groups with four types in each group. For policies that focus on the work environment, they identified: disability discrimination legislation; policies that focus on improving the accessibility of the work environment; financial incentives to encourage employers to hire people with disabilities; and making employers and service providers devise plans to return people to work. For the policies that are directed towards an individual, they identified: financial benefits to provide motivation for people to enter the labor market and reduce their dependence on benefits; instituting individualized support and advice to help find and secure employment; programs designed to increase an individual's employability, including education, training and work trials; and offering programs that help people manage their conditions. This typology shows that disability employment can be approached in a number of different ways. All of these approaches have elements that can protect individuals' rights, but they do not exist in isolation. Taken together, the policy context that these strategies create is an area that needs additional research. The nations involved in this research contain elements of each of these strategies, but they have strong neoliberal influences that are most concerned with economics, the free market and getting people off of benefit systems. Still, the strategies that have been identified, when adequately funded and implemented, have the potential to enable people with disabilities to obtain equal opportunities to participate in the market.

In reviewing international evidence on policies designed to help chronically ill individuals or people with disabilities into employment, the Public Health Research Consortium (2009) divided their analysis in two directions: policy that focuses on the employment

environment, and policy that focuses on individuals, either on benefits or skill development. They found that the United Kingdom focused most of its policies on the individual, especially over the past five years. The United Kingdom also has a very de-regulated market, but the research did not show that having a de-regulated/flexible market has either a positive or negative impact on employment. Countries that spent higher on an active labor market policies did have a higher employment rates for chronically ill individuals and people with disabilities. Especially in the United Kingdom, the combination of flexibility and the lack of employment protection does little to help chronically ill or people with disabilities remain in the labor market

The active measures that governments have implemented have, up to this point, not had much of an impact on addressing the root of the problem concerning the perceived dependency on disability payments. A potential solution is shifting disability benefits away from income replacement programs so that they are more labor-market-oriented and allow for partial work capacity. Such structural reforms are at the heart of reform to disability benefit programs. The OECD (2009a) argues that governments need a two-part strategy currently: including short-term measures to help people maintain engagement with the labor market, and structural reforms that promote a culture of inclusion. They have three key messages for policymakers: (i) a culture of inclusiveness is necessary to achieve the outcomes because disability benefits without a partial work capacity component trap people with disabilities in the benefit program; (ii) all actors who are involved must have incentive to keep people in work or bring them back to work; and (iii) institutional and workplace reforms should be complementary to make policies work. These recommendations can be a positive step if they are implemented with the principles of human rights taken into account. The first recommendation, partial work capacity, is potentially a

particularly positive step in policy reform because it allows people to work to their abilities rather than excluding them from the labor market because of their disabilities. This recommendation represents a possible bridge between work requirements and benefit allowances because it accounts for individual circumstances. This issue will be discussed in more detail in the subsequent subsection. The second and third recommendations are also important because they recognize that policies specific to people with disabilities are needed in order for them to have success in the labor market.

b. **Partial work benefits**

The policy recommendation to adopt systems of partial benefits came at a significant time because, at the same time, Mitra (2009) published a study on nine countries, including the United States, Australia and the United Kingdom, that detailed their disability benefit programs. She found that, in countries that do offer partial benefits, employment rates for people with disabilities are higher, but this had not translated into better rates of benefit termination because a person has returned to work. The research also highlighted that, although people remained on benefits, this did not mean that those nations had higher disability expenditures. Neither the United States, Australia nor the United Kingdom offer programs of permanent partial disability benefits. However, in making recommendations for the United States, Mitra (2009) argues for a working tax credit that includes a disability component, similar to the one used in Great Britain. Such tax credits meet the same goals as partial benefit programs: namely to allow people with disabilities to work and provide extra income that brings their earnings up. Many people with disabilities prefer to work part-time rather than pursue full-time employment (Kruse & Schur, 2002; Schur, 2002; Schur, 2003a). This helps to move past a “one

size fits all” program that separates people who can work full-time from those who cannot and develops a system that works for a variety of individuals. However, working tax credits are for a standard amount and do not necessarily raise an individual's income up to a minimum standard. Therefore, the influence of the neoliberal approach to policy is evident in this approach because a person's needs are still largely dependent on participation in the labor market. Still, partial benefit programs and working tax credits do incorporate some aspects of human rights because they focus on individual circumstances and acknowledge that additional income is often required for a person with a disability, even if they are employed. These programs help to establish a more inclusive view of employment and benefits systems that accounts for a wider range of human abilities. The OECD (2007a) notes that medical professionals will be relied on to determine who meets the criteria to obtain partial disability benefits or working tax credits, which, in their view is necessary to prevent misuse of benefits and avoid situations where people who can work are able to obtain full disability benefits. This promotes the medical model and ignores the principles of autonomy that the human rights approach promotes in order to allow people with disabilities the self-determination to make their own choices about participation.

Another policy solution that has been used is short-term and temporary benefits (Mitra, 2009). Australia and the United Kingdom offer these programs while the United States does not. Like many countries, Australia and the United Kingdom do this by placing people with work capacity on benefits that are similar to general unemployment benefits in the country. For instance, in Australia, people with disabilities who are assessed as being able to work 15-29 hours are placed onto unemployment benefits and are expected to look for a job. These schemes often require work-related activities and job searches with the ultimate goal of employment.

These benefits are typically limited to a certain number of months and include access to employment services through Public Employment Services (PES was discussed in a previous section and could include specialized or mainstream services). This dissertation is focused directly on this policy solution in each country.⁸ While the partial disability benefit solution contained in the previous paragraph was guided by a mix of neoliberal and human rights perspectives, short-term and temporary benefits are more aligned with strictly neoliberal policy goals. That is, they emphasize moving people off of benefits and into the labor market without much consideration of individual capacities or the need for additional income.

A third potential policy solution to the problem of people with some work capacity being placed on disability benefits is to reduce the rates of benefits. Doing so would motivate people who can work to transition into the labor market and off of benefits. However, as Carcillo and Grubb (2006) argue, this is not an appropriate solution, because some people are legitimately unable to work and should be able to have a decent level of benefits. Theories of social justice and human rights assert that a decent standard of living should be a part of social policy. If a reform eliminated or reduced benefits, it would fully embody the neoliberal approach and disregard human rights. Therefore, these three policy solutions regarding the need to reduce disability benefit expenditures have varying levels of the mix of the human rights and neoliberal perspectives on policy reform. While these solutions have been implemented recently, a disability benefit culture (where people with disabilities are largely eligible for benefits) still exists in the OECD and highlights that passive policies are still better funded. However, largely

⁸ While the Ticket to Work policy in the United States is voluntary, there are strong incentives to participate, and those who do enter a similar program. This dissertation treats each policy similarly, though the issue of mandatory versus voluntary participation does offer an interesting analytical focus.

because of the issues surrounding partial work capacity, there has been a slow shift from disability to ability in employment policies (OECD, 2009b). This dissertation explores in more detail the mix of and tension between human rights and neoliberal perspectives that can be seen in national disability policies.

c. **Other policy options**

While partial work capacity helps to determine the amount of work that a person with a disability should do, there is still the question of how to effectively integrate them into the employment market. Carcillo and Grubb (2006) note that individual case management is important for helping people and to work after having requirements placed on them. For people with disabilities, policies include job search support; integrated services; specific employment programs for people with disabilities; and voucher systems/outsourcing. For job search support it may be helpful if obligations were delayed for the first few months to allow people to adjust to the new responsibilities. Integrated service suggests that people with disabilities receive services through mainstream programs by having disability specific components. Specific employment programs for people with disabilities could include vocational rehabilitation, subsidies paid to an employer, sheltered employment, accommodations in the workplace or post-employment counseling. Ticket to Work in the United States is an example of a voucher system because it allows people to choose which client they want to use and pay them services with a ticket (Rupp & Bell, 2003; Stapleton, et al., 2008; Thornton, et al., 2007; Wittenburg & Loprest, 2004).

In-work benefits are another important policy option to encourage people with disabilities to enter the labor market. These benefits are often targeted at people who have little incentive to seek employment because employment would do little to improve their net income or people

who earn low wages (Leppik, 2006). They are also the cornerstone of partial disability benefit systems, because they help to supplement wages. Conceptions of in-work benefits in liberal welfare states are included in the popular mantra “make work pay.” The government in the United Kingdom even developed a strategy with that name (Brewer & Shephard, 2004). In-work benefits can include tax credits, payments made to support wages or payments made in a lump-sum.

d. **Reforms and employers**

Employers have a large role in policy reforms. At the High-Level Forum, the Business and Industry Advisory Committee to the OECD (BIAC, 2009) presented a paper in which they argued for a highly flexible labor market, strong incentives for all stakeholders involved in employment and benefit systems, and a focus on retention and reintegration. Similarly, the United States Agency for International Development (2009) believes that the government must assist businesses in developing the institutional capacity to promote, facilitate and support the design, implementation, monitoring and evaluation of educational and vocational skills development and employment-related programs (Parker, Owen, Gendera, Katz, & Goldblatt, 2011).

The OECD asserts that businesses have an active responsibility to control who becomes eligible for disability benefits. They should take a proactive role in monitoring sickness absences and have incentives to retain and rehire people after absence. This will help prevent people from transitioning from sickness absence to disability benefits (OECD, 2008). Antidiscrimination legislation can help to place responsibilities and barriers on businesses from dismissing an employee with a disability or who is sick. For instance, the ADA may be successful in delaying

peoples' exits from employment. "Thus the ADA will actively reduce transfer dependency, not so much by increasing exits from the disability rolls but by slowing entrance onto them" (Burkhauser, 1997, p. 79).

The issue of workplace accommodations is another key strategy for people with disabilities to access employment. Hahn (2000) conceptualizes accommodations as a given because employers provide equipment for all of their other employees so that they can perform their jobs. Despite evidence that accommodations typically have very low cost (only 1% cost more than \$500) (Blanck, 1997), they can be misperceived by the business community. This relates back to neoliberalism and the focus on economics. The business community may see accommodations as an extra expense that will not benefit them in the long run (Blanck, 2000a). However, evidence (Schartz, Hendricks & Blanck, 2006) shows that businesses do benefit from providing accommodations. Workplace accommodations are an area where supporting the human rights of people with disabilities is consistent with business economics. Accommodations are included in the CRPD and are discussed in more detail in later chapters.

e. **Coordination issues**

Because the access to disability benefits systems has been restricted it is important that adequate training and employment programs are available. For many countries this means that there needs to be a better coordination of services across levels of government. For example, the Australian Government guides policy direction and intent and provides funding to states to operate programs. However, social security and employment services are still controlled by the Federal Government (Chenoweth, 2008). Similarly, in the United States, Ticket

to Work is a federal initiative that provides funding to local providers (Rupp & Bell, 2003; Stapleton, et al., 2008). It is important that policy be implemented consistently.

Another issue of coordination that is important is improving communication between government departments, especially concerning health care. It is important that health care benefits be integrated throughout multiple systems so that benefits are well understood (OECD, 2009a). Again, Ticket to Work in the United States is a good example. That policy involves aspects of not only employment opportunities for people with disabilities, but also their access to benefits through the Social Security Administration and eligibility for health care (either extended or through by-ins) through Medicaid or Medicare. The health components of Ticket to Work are one of its key features (Blanck, et al., 2003). This is an important point that is developed further in the analysis.

5. **Employment, education and training**

The welfare to work strategies that the United States, Australia and the United Kingdom have adopted emphasize the need for education and training to make people with disabilities more employable. Each of these strategies will be discussed in more depth in their respective chapters, but employment research shows that individuals who have more education or go through training programs have better employment outcomes (Barnett & Spoehr, 2008; Flannery, Yovanoff, Benz, & Kato, 2008). The impacts of education and training programs are positively associated with the degree that the programs are integrated into mainstream society (White & Weiner, 2004). The CRPD makes explicit mention of the benefits of education and training programs and asserts that people with disabilities should have equal access to them (United Nations, 2006).

6. **National reforms**

While the main strategy of industrialized welfare states, including the United States, Australia and the United Kingdom, has been an investment in employment and efforts to get people with disabilities into work, it is commonly agreed in the literature that these programs and policies have failed to achieve their intended aim, and have not made sufficient or sustainable improvement in labor market participation (Carney, 2006a; Chenoweth, 2008; Dean, 2006; Dostal, 2008; Grover, 2007; Humpage, 2007; Stapleton, et al., 2007; Stapleton, et al., 2008; Thornton, et al., 2006; Thornton, et al., 2007). The disadvantages that people with disabilities face in the labor market are not simply due to discrimination, disabling attitudes or prejudice, disadvantage is rooted in social inequality (Priestley, 2005). Government action must work to overcome these social inequalities in order for people with disabilities to participate in the labor market.

The OECD argues that disability benefits systems have been “the weakest link” in social and employment policy (OECD, 2008). Nations have reformed their systems to emphasize a focus on employment but have not committed the resources that are needed in order for those policies to have a large impact. Further, countries have encouraged employers to play a bigger role and reforms have not given them the tools or incentives that they need. Additional policy reform and analysis are needed in order to assess the impacts of policy reform and improve solutions in the future.

D. **Conclusion: Including Human Rights in a Neoliberal Policy Context**

This chapter focused on the competing discourses of the neoliberal and human rights approaches. The human rights approach emphasizes that all individuals have rights, including the

right to employment and income maintenance. One of the central ideas is that government has the responsibility to promote equal opportunities, especially equal opportunity for employment. The neoliberal approach is dominated by economics and the free market with little regard for individual interests, aside from the belief that individual needs are best met by participating in the labor market. This domain, employment, offers space where the human rights and neoliberal approaches share a similar goal: increasing the employment of people with disabilities. The challenge for implementing neoliberal policies is promoting human rights within those policies so that they work and account for the needs of people with disabilities. This chapter highlights ways for policy to be more effective: structural reforms, including partial benefit eligibility so that a person can work to his/her ability; a separate disability allowance to account for the extra cost of living with a disability; increased coordination with employers; and improved employment training and skills development programs.

The question that must be answered with regard to the neoliberal and human rights approaches is: is it possible for neoliberal policies to adequately account for human rights of people with disabilities? The following chapters will analyze the extent to which the United States, Australia and the United Kingdom promote the human rights of people with disabilities within recent welfare to work reforms. However, first Chapter 3 details the methods that were used to conduct the research.

III. Research Methodology

A. Research Problem

As Chapter 2 noted, the United States, Australia and the United Kingdom have been influenced by both the human rights approach and the neoliberal perspective. Each of these countries has reformed their programs for disability benefits over the past decade, and the influence of neoliberalism on these policies/programs⁹ is clearly evident. Each is directed towards reducing dependency on benefits and moving beneficiaries into the labor market. In countries where benefits are already meager and means-tested, welfare to work policies must support the human rights of beneficiaries to allow them to have equal opportunity in the labor market. However, the influence of the human rights approach on these reforms is less clear. This dissertation provides analyses to determine whether these policies are consistent with the human rights approach as espoused by the United Nations Convention on the Rights of Persons with Disabilities (United Nations, 2006) and consider if/how a neoliberal policy context can best promote human rights. The experiences of people with disabilities are a key perspective throughout the research.

More specifically, this research addresses the following research questions:

1. What policies/programs have been implemented regarding welfare to work for people with disabilities in each country?

⁹ Specifically, these programs refer to Ticket to Work in the United States, Welfare to Work and related reforms and programs in Australia, and Pathways to Work in the United Kingdom. When this dissertation refers to the national policy context, these policies are at the center of the analysis and other national policies that have influence on these welfare to work policies are considered to the extent that they are relevant.

2. Under which conditions is the implementation of welfare to work policies for people with disabilities in each country consistent with the human rights approach as outlined in the CRPD?
3. How do people with disabilities experience welfare to work programs/policies in each country, and is that experience consistent with national implementation and rhetoric?
4. Which aspects of policy implementation and the overall policy context in a country are useful for promoting the human rights approach and which result in tensions between human rights and neoliberalism?
5. What do the United States, Australia and the United Kingdom have in common and what can they learn from one another regarding effective implementation of welfare to work policies/programs?

As justified below, adequately addressing these questions required detailed and contextual information best gathered through case studies of each nation that emphasize the experiences of people with disabilities. The overarching goal of this research was to inform policy research and reform in neoliberal policy contexts and explore the tension between the neoliberal perspective on policy and the human rights approach, particularly for people with disabilities.

B. **Research Approach**

This dissertation used a cross-national comparative approach that performed case studies with mixed-methods in each country. The features of this approach are explained below.

1. **Cross-national research**

The defining feature of cross-national (comparative) research is straightforward: it involves the collection and comparison of data from more than one nation (Allardt, 1990; Bollen,

Entwistle, & Alderson, 1993). Cross-national research is an approach and not a methodology itself. It helps develop understanding of social reality by examining similarities and differences of countries (Elder, 1976). There is no one method of cross-national research as a range of methods can be used to achieve cross-national research that focuses on the similarities and differences of nations (Hantrais, 1999; Lijphart, 1971; Mabbett & Bolderson, 1999).

Kohn (1987) offers a typology of cross-national research based on the role that nations play in the research. The four types he identifies are: (i) the nation as the object of study, (ii) the nation as the context of study, (iii) the nation as the unit of analysis, and (iv) transnational research. Where the nation is the *context of a study*, the inquiry concerns how a phenomenon is treated in different social structures. The difference between this approach and nations as the objects of study is that this approach chooses nations for a theoretical reason that makes comparisons of nations and subsequent generalizations meaningful. When nations are viewed as the context in which a phenomenon can be observed; it is the phenomenon that is the central focus for researchers. Therefore, nations are the context of study in this dissertation and the phenomenon of focus is implementation of welfare to work in the countries. Neoliberalism and human rights are both present in the United States, Australia and the United Kingdom, but the policy contexts and implementation is different. Thus, the nation was important to this research because they provided the contexts in which neoliberal influences on policy and the human rights approach to disability were studied.

Scholars use cross-national research for a number of reasons. Notably, it is useful for analyzing how different policy contexts affect a phenomenon (Hantrais, 1999; Harris, 2007). This is particularly important since industrialized nations are increasingly faced with similar

problems (Clasen, 1999). A better understanding of individual nation's responses can help identify best practices (Hantrais, 1999). These reasons were important to this research. Each case study offers useful information on how the national context is consistent with the human rights approach. Because the United States, Australia and the United Kingdom are faced with a common social problems regarding growing expenditures on disability benefits and low labor market participation of people with disabilities (OECD, 2009a, 2009b), the case studies identified best practices for addressing these problems while remaining consistent with the human rights approach.

Cross-national research is also beneficial because of its potential to generate theoretical generalizations (Hantrais, 1999; Kohn, 1987; Lijphart, 1971). In 1873, Edward A. Freeman, a British historian, wrote that he regarded the comparative method as the most important development of his time because of its potential to discover universal laws (Lijphart, 1971). Most cross-national research uses a small sample to develop generalizations that they can be expanded into a grand theory (Mazur & Parry, 1998). While this dissertation did not attempt to formulate generalizations or a grand theory, the data that it presents can be used to reconsider existing theories concerning the welfare state and people with disabilities. Specifically, the research comments on the intersection of disability rights and neoliberalism in welfare states.

2. **Case studies**

Case studies are an effective way to approach a cross-national study using nations as context. Therefore, this research was designed around in-depth case studies of welfare to work policies in the United States, Australia and the United Kingdom. These case studies constitute stand-alone studies of national policy contexts, but also facilitate cross-national comparisons.

The purpose of these studies was to obtain detailed information about each case in a comprehensive and systematic manner (Patton, 1990). A case is an instance where the phenomenon under study can be observed (George & Bennett, 2005). While practical matters like access, time and hospitality should be considered, cases should be chosen in order to maximize what can be learned (Mertens, 2005). Indeed, cases are generally selected because the cases are familiar to the researcher, share certain commonalities, are heterogeneous, have certain values for of the phenomenon under study or have available data (Bollen, et al., 1993). In cross-national research, cases are often nations, and comparisons seek to show how national contexts influence the phenomenon being studied (Hantrais, 1999). Allardt (1990) sees nations as valid cases as long as the context of a phenomenon is important. Mabbett and Bolderson (1999) argue that case studies are the ideal approach for many studies involving nations, particularly regime analysis. They cite Pierson's (1994) study of welfare retrenchment in the US and Britain as an example of case studies' ability to generalize beyond two welfare states to an entire regime.

In addition to which cases to choose, this research had to decide how many cases to choose. In case studies, depth and context is more important than a large sample (Allardt, 1990; Bollen, et al., 1993; Mabbett & Bolderson, 1999). In their survey of recent comparative work, Munck and Snyder (2007), found that only one-fourth of included more than five countries. Tilly (1984) emphasizes the strengths of using a small number of cases. Researchers have to pay more attention to detail, history and context in order to make sense of the phenomenon in a small number of cases so that comparisons are meaningful. Assuming a limited timeframe and limited resources, a small sample lets researchers examine more variables and contexts than studies on a larger scale. Despite their limited representativeness, these studies offer some room for

extrapolations if they are framed properly (Hantrais, 1999). Such inductive reasoning is usually theoretically justified. For example, Mabbett and Bolderson (1999) use convergence theory to suggest that findings from a small number of welfare states have the potential to be applicable to all welfare states because the market economy restrains them all similarly so that they approach a common model.

There were both theoretical and practical reasons for choosing the United States, Australia and the United Kingdom for this dissertation. These nations belong to many of the same international organizations, notably the OECD. Therefore, they have many of the same goals and purposes for their social policies (including reducing expenditures on disability benefits and improving employment for people with disabilities). Similarities between the United States, Australia and the United Kingdom become more acute when one considers that they are widely regarded as belonging to the same welfare state regime, liberal welfare states, as originally classified by Esping-Andersen (1990) and revised by numerous scholars (see previous chapter). As liberal welfare states, benefit programs are typically residual and means-tested; emphasis is placed on labor market participation. Furthermore, since neoliberalism is based around market participation, neoliberal policies have been widely implemented in liberal welfare states. Each country has adopted welfare to work policies for people with disabilities, which, despite similarities, have subtle divergences, and these differences provided crucial analytical points for the dissertation. Additionally, as discussed in Chapter 2, these countries have been influenced by a rights-based approach to disability, both domestically and internationally.

Adding to the theoretical basis for case selection was the fact that academic relationships were already built between the research partners in each of these three countries. Furthermore,

each partner University has academic or research programs in Disability Studies (Institute on Disability and Human Development [Chicago, IL], Centre for Disability Studies [Leeds, England, UK], and the Social Policy Research Centre [Sydney, Australia]) that are global leaders in the field and collaboration strengthens the field of Disability Studies and incorporate policy analyses from a variety of perspectives into disability theory. These Universities are located in the cities (Chicago, Sydney and Leeds) where the data collection was conducted, and were chosen for practical reasons, not to be representative of a country as a whole. Another practical reason for choosing these countries as case studies is that they recognize English as their official language, so there was no need for translation or other linguistic logistics.

3. **Mixed methodology**

The previous sections outlined that a cross-national approach utilizing case studies was used for this dissertation. However, a case study is not a method itself; it typically involves several data collection approaches. Conducting interviews and document research is a common combination in cross-national research. Many qualitative workers use quantitative data to add a multi-dimensional perspective (Mangen, 1999). A variety of data, including documents, archival material, interviews and observations, are typically used in case studies to add detail to a case (Hartley & Muhit, 2003). Regardless of which methodologies are used in combination, a mixed methods approaches typically improves research design (Mangen, 1999).

Patton (1990) asserts that the nature of a research problem dictates the methods of inquiry that should be used. This dissertation includes multi-faceted questions that require different data sources, making a mixed methods design essential. Mixed methods often triangulate data or use multiple perspective in order to seek a common understanding (Mertens, 2005). The methods

that this dissertation used included a review of national policy literature and focus groups with people with disabilities (see subsequent subsection). The data used included national statistical data; non-government, government and scholarly policy publications and unpublished documents; and the qualitative perspective of people with disabilities from the focus groups. These data sources involved government policies and the perspectives of people impacted by those policies. Triangulation is used to find consistency in the results of these different data sources and allows for a deeper understanding when there are inconsistencies (Patton, 1990).

This dissertation utilized a qualitative cross-national policy analysis methodology to investigate the key questions under consideration. An examination of international and national literature on disability shows that this method offered the most valuable approach in which to locate a comparative analysis of disability policy discourse and practices. Kennett (2004) notes the need for greater recognition of the importance of analyzing social policy outcomes in different countries and their impact on different groups of people. Qualitative research offers insight into the complexity of the disability experience that other types of research do not capture (O'Day & Killeen, 2002). The strengths of a qualitative approach lie in its attempt to reconcile complexity, detail and context, and in its focus on interpretation and meaning – thereby providing a deeper understanding of the issues (Mangen, 1999). The dissertation combines rich qualitative data descriptions from people with disabilities obtained through focus groups with policy analysis and review which provided more detailed context.

Contextual factors and the depth of data obtained are the strengths of qualitative methods (Mangen, 1999). These factors improve the quality of data and conclusions. Statistical researchers cannot be sure that they have accounted for every variable, while field work reduces

the chance of qualitative researchers overlooking a factor not considered at the outset of research (Mahoney, 2007). Qualitative methods allow the important variables to emerge during the research. Mahoney also argues that the proximity of data make for strong measurements and conceptualizations (see also Bennett & Elman, 2007). Qualitative research relies on data that is actively collected, through interviews, newspapers, and of their nonofficial documents. As much detail as possible is sought to promote a better understanding of the phenomenon (Munck & Snyder, 2007).

Often qualitative research puts people at the center of research. Hartley and Muhit (2003) describe the importance of individual perceptions towards policy in their study of disability policy-making in Uganda. “The results highlight the interactive, iterative relationship between the development of policy and existing practice, and challenge the more linear view of cause and effect...This concept can be utilized in other settings around the world” (p. 109). Data collected from individuals helps to guide theory development and inform research conclusions.

Focus groups are a specific type of qualitative methodology that was originally used in marketing research. They have been referred to as both group interviews and group discussions (Woodring, Foley, Santoro Rado, Brown, & Hamner, 2006), which accurately describes what a focus group is. The data collection process is the distinguishing characteristic of focus groups; participants interact with one another and with the researcher. This interaction allows the participants to question, contradict, and agree with one another and leads to open data disclosure (Wilkinson, 1998). Focus groups aim to generate discussion on a particular topic; participants are usually chosen because of a characteristic related to that topic. Participants are more comfortable and open with peers with shared experiences than in a traditional interview (Knodel, 1995;

Wilkinson, 1998; Woodring, et al., 2006). All of the participants in this dissertation were people with disabilities impacted by welfare to work or with an interest in obtaining employment, which led to a good rapport with one another and open discussions about their experiences.

Focus groups have been widely used in social policy research and are valuable to phenomenological, experiential and narrative researchers (Wilkinson, 1998). Focus groups are particularly effective for gathering data from groups that are typically overlooked or underrepresented in traditional research (Knodel, 1995; Wilkinson, 1998; Woodring, et al., 2006), making them a useful tool for research involving people with disabilities. Focus groups are often used to conduct research with populations historically marginalized in social sciences, as they empower individuals to be part of the research process and give voice to an underrepresented group (Kitzinger, 1995; Woodring, et al., 2006). This was evident in the focus groups because a number of the participants were thankful for a forum to express their concerns with a researcher and found it helpful to share experiences and see that other people are facing similar problems.

Focus groups are a useful technique in policy driven research because they can help to develop and test policy strategies; improve existing programs and evaluate outcomes; and provide further insight into the criteria needed for successful policies (Kruger & Casey, 2000; Woodring, et al., 2006). Woodring et al. (2006), in a study on employment and disability, found that focus groups provided an opportunity to learn local policy and practice changes directly from the perspective of those using the services in question – which was an important component of this research, as well. Focus groups offered the participants with disabilities a versatile and flexible means to generate discussion about the main barriers and facilitators in accessing

employment; convey experiences/perceptions of their participation in welfare to work programs; and facilitate the expression of ideas and experiences that might be left underdeveloped in a interview (Knodel, 1995; Wilkinson, 1998).

C. **Research Methods**

As the previous subsection noted, that design for this dissertation included both policy literature review and analysis and focus groups with people with disabilities. Although in the analysis these complement one another, each stage of data collection is detailed below separately.

1. **Stage 1: Policy literature review and analysis**

The first stage of the research was descriptive and addressed the first research question about the policies that are currently in place and analytical by setting the context for the focus group analysis. Using primary, secondary and tertiary data sources, the researcher examined each nation's current policies regarding the participation of people with disabilities in the labor market, benefit programs, and welfare to work programs and collected the relevant statistical data to frame the national context. The objective was to describe the employment positions and welfare participation of people with disabilities in each nation.

Data for the analyses came from a variety of international and national data sets, accessed in collaboration with the research partners at The Institute for Disability and Human Development (US), Centre for Disability Studies (UK), and the Social Policy Research Centre (Australia), the associated University libraries, as well as published government data collections. These included census data, budgets, impact assessments, and government program reviews. Specific indicators of interest included, but were not limited to: employment and unemployment

rates, types and duration of employment, national spending on employment policies and programs and benefit programs, rates of outflow off and enrollment in benefit programs, and relative income levels. Additionally, the researcher reviewed published and unpublished government and non-governmental organization documents and policies, and academic and independent articles, reports and reviews.

2. **Stage 2: Focus groups with people with disabilities**

The second stage of the research in each country focused on people with disabilities and their experiences with the welfare to work policies/programs. A total of 57 people with disabilities participated: 18 in the United States, 24 in Australia, and 15 in the United Kingdom. Three focus groups were conducted in each country, and two individual interviews were conducted in the United Kingdom, and one in Australia, for people with disabilities who could not attend a focus group, but still wanted to participate. The participants were asked how they had been impacted by the program and broader policies, the barriers and facilitators to employment that they encountered, their ideas for improving services, what aspects of the programs work well, and more general concerns about moving into the labor market (a focus group guide is located in Appendix C).

Participants for this stage of the research were recruited via email listservs and announcements (recruitment mater is located in Appendices D) and posted in local agencies and places that people with disabilities frequently visited, with the assistance and guidance of the national research hosts (see subsequent section). Those interested in participating in a focus group were asked to contact the researcher via phone or email with contact information, their age, ethnicity/race, gender, disability-type and employment/program participation status.

Potential participants were advised that these details would be kept confidential but were essential to ensuring a range of participants (although all of the people with disabilities who expressed interest in participating were invited to a focus group). Because these focus groups were also part of a larger research project (Parker & Owen, 2009),¹⁰ and to keep the amount of data manageable, this dissertation recruited people who self identified as having a physical or sensory disability specifically. In practice, a few other types of disabilities were represented in the sample after collecting more demographic information at the focus group, although the researcher decided to allow them all to participate because of the difficulty finding enough research participants and because none of them constituted a person who was “decisionally-impaired,” which the ethical approval obtained for this research expressly prohibited. One of the reasons that people with other disabilities participated in the focus groups is that two of the focus groups in each country were hosted by a local organization (employment service providers in Australia and disabilities services in the United States and the United Kingdom), and the person at each organization who helped to arrange the focus groups did not pay adequate attention to the recruitment material. A table describing the participants can be found in Table IV, Appendix E.

The sample of 57 people with disabilities who participated had an average age of 41.3 (two people withheld their age). A majority of the participants reported their race/ethnicity as either white or Anglo (37/56 or 66%, with one person withholding this information), with 11 of the 19 (58%) people who did not identify this way participating in the United States. Thus racial diversity was less in Australia and the United Kingdom than in the United States. Gender was relatively evenly split between the participants, with 31 (54.4%) men and 26 (45.6%) women.

¹⁰ University of Illinois at Chicago protocol number 2010-0166 (see Appendix G for ethical approval in all three countries).

The sample had a range of disabilities, the most common being a physical disability (25/57 or 43.9%) or a visual impairment (16/57 or 28%). The participants were fairly well educated, with 20 (35%) reporting that they have been through at least some college and only three (3.5%) not having the equivalent of a high school education.

Prior to each focus group, each participant gave their informed consent by signing the informed consent document (see Appendix F). After the participants had given their informed consent to the research, the focus groups were held. The author of this dissertation served as the facilitator for each focus group and was assisted by a co-facilitator (a graduate student in each city). Each focus group was audio-taped and transcribed. In the transcripts and this dissertation, the participants have been de-identified and pseudonyms are used exclusively. Their identities are only known to the research team, and all files that contain any personal information have been maintained in a locked file cabinet in the researcher's office or password-protected on the researcher's laptop and external hard drive.

Each transcript was coded in ATLAS.ti using the approach known as "Indexed Coding." This approach required a set of well-defined codes (either from external sources or from quick readings of the transcripts) and applied them to segments of text in the transcripts (Morgan, 2005). The codes that were developed were based on themes that came from the literature review and an initial review of the transcripts (see Appendix A). The use of ATLAS.ti helped to keep track of and define the codes, as well as allowed advanced searches for codes in the transcripts. The focus groups were initially coded into 62 codes (16 of them were demographic and another was used to mark quotations for use in the analysis), which were reduced to eight dominant themes, or what Greenfield et al. (2010) call "megadomains" per country. Although the

megadomains varied slightly by country, there was significant overlap, likely because, as Miles and Huberman (1994) suggest, the project's research questions aided in developing the megadomains. These megadomains, along with the theoretical and policy literature reviews, were then analyzed through a framework of human rights based on the CRPD.

D. **Research Analysis**

The analysis was situated within a framework similar to the Emerging Disability Policy Framework (EDPF). Making use of the growing recognition of the social model of disability, Silverstein (2000) created the EDPF in order to assess the extent to which people with disabilities can fully participate in society. He uses the terms “old paradigm” and “new paradigm” to refer to the medical model and social model of disability, respectively. The new paradigm implies that policies remove the attitudinal and institutional barriers that have prevented people with disabilities from full participation, which Silverstein sees as embodied in the Americans with Disabilities Act (ADA).

While the EDPF is a useful tool for analyzing American policies, it needed to be slightly reworked to reflect global conceptualizations of rights for people with disabilities. The CRPD represents the basis for adapting the EDPF. As mentioned previously, the CRPD explicitly states the eight principles it is founded on, which have direct implications for the employment of people with disabilities and the policies nations have in place. These principles were used to assess to what extent national policies were consistent with the human rights approach (the framework is detailed in Appendix B).

These two stages of data collection resulted in national case studies that include two primary pieces. The first is a descriptive narrative of the employment and welfare policy and

situational context for people with disabilities in each country, which directly answers the first research question. The second piece combines the qualitative data and themes obtained from the focus group participants with policy and document data. Together these provide an experiential perspective on how welfare to work policy impacts people with disabilities in the country. Together, these pieces constitute a single case study for each country.

This design allowed for three primary observations to be made. Within a single country, the design facilitated: (i) a description of the status of people with disabilities regarding participation in the labor market and benefits; (ii) a summary and analysis of the policies that are in place to increase labor market participation of people with disabilities; and (iii) a comparison of the experiences of people with disabilities to the CRPD. As Patton (1990) argues, the researcher's primary responsibility in order to conduct a good case study is to focus on each case individually. For this research, this meant the researcher had to focus on the individual nations before making comparisons.

The individual national case studies formed the basis for comparing the countries. As was the case nationally, this analysis was performed at multiple levels. The areas of comparison include: (i) national factors that promote or impede the provision of employment rights; (ii) how well national policies are implemented compared to policy rhetoric; and (iii) the experiences and suggestions of people with disabilities regarding welfare to work. The comparisons include both similarities and differences between the United States, Australia and the United Kingdom and identify best practices and lessons to be learned.

For the cross-national analysis, the systematic comparison approach was useful. This approach summarized the case studies of each nation around several topics. A grid was created

with the topics forming the rows and each column consisting of a separate national case study (see Table I in Chapter 7). Each cell in the grid contains the summarized information and cases can be quickly compared across the topics (Morgan, 2005). This approach does not require a high level of detail, but since the individual case studies have already been completed, the analytical task was one of systematically comparing one aspect of the policy context or welfare to work implementation or personal experiences between the countries.

E. **Epistemological Approach**

This dissertation takes an interpretive case study approach to the research. This approach is distinguished from the positivist approach because it is not based on finding “truth” or social laws. Rather, there is a focus on social construction and developing thick descriptions that can be used to construct meaning (Walsham, 1995). Walsham notes that the interpretive case study approach is highly intertwined with ethnography. The influence of the ethnographic approach to research is clear in this dissertation’s analysis. Ethnography represents shared ideas about a phenomenon (McMillan, 2007) and the participants in the focus groups were selected because of their experiences, and this dissertation highlights those experiences collectively. Ethnography allows multiple sources of data to be critically examined, summarized and synthesized, which is how the analysis in each case proceeds. McMillan (2007) notes that ethnography relies on “pattern seeking” and allows the researcher to inductively interpret the evidence. Therefore, the themes that emerge from the focus groups are supplemented with policy data and documents to contextualize and give additional meaning to experiences. These two primary sources of information/evidence are often used to highlight the tension between policy implementation and human rights experiences. The analysis does not attempt to construct a “truth” about how well

human rights are incorporated into welfare to work policy; rather, the existence of tension is used as evidence to suggest steps that can be taken to ensure that people with disabilities' experiences within welfare to work are more consistent with human rights.

F. **Research Location and Local Support**

Because of the international/comparative nature of this dissertation, it was imperative to have research partners/support in the field. The international members of the researcher's dissertation committee hosted the researcher in the summer of 2010. Specifically, the fieldwork was completed between May 3, 2010 and June 24, 2010 in Leeds while the researcher was a visiting postgraduate miscellaneous research student at the Centre on Disability Studies in the School of Sociology and Social Policy at the University of Leeds. Fieldwork in Australia was completed between July 9, 2010 and September 3, 2010 as a visiting scholar to the Social Policy Research Centre at the University of New South Wales. The focus groups in the United States were conducted in Chicago during November and December 2010.

G. **Research Limitations**

There are a number of limitations to this study. It focuses on the cities of Chicago, Sydney and Leeds, which are not necessarily representative of each nation. The populations of these areas undoubtedly differ from those in other regions of the country in demographics, community accessibility, available services (including the number and type of employment and service providers), economic outlook, and local and state legislation. Therefore, this research is specific to each city and not each country as a whole. However, the contents of this dissertation still make a significant contribution to research on the welfare to work policy context regarding human rights for people with disabilities in each country. While implementation of policies is

done at a local level (which is important), the policies that are at the core of this dissertation are national in scope, so there are some lessons to be learned.

There are also limitations as to the population that this dissertation covers. By specifically recruiting for people with physical and sensory disabilities, the research ignores key experiences of people with other kinds of disability, notably intellectual disability. Therefore, it is not representative of all disability experiences. Experiences of people with intellectual disabilities are likely to differ and deserve research of their own.

Related concerns surround the sample that did participate. The majority of the participants were white and well-educated. They all have had experiences with employment advisers and included employment as one of their goals. These factors may distinguish them from the population of people with disabilities as a whole. Those who did participate chose to do so because of their interest in employment and trying to find better opportunities. While this did make them good participants who offered rich data, not all people with disabilities are necessarily of the same disposition. Notably, these participants were highly engaged and involved in the community and/or local organizations, which may not be true of all people with disabilities.

The samples in the countries also differed on some levels. The big difference was with the local organizations that hosted focus groups. Employment service providers hosted two focus groups in Australia, so all of the participants were currently involved with a provider, but it is unknown how participants were invited by that provider. It may be that they were seen as “good representatives” of the agency for some reason. One of these focus groups was conducted with an agency that specializes in transition to work from education, so those participants were

between 18 and 20 years of age, making the sample in Australia average 31.5 years old, which is much younger than the overall sample average of 41.8 (50.3 in the United States and 47.3 in the United Kingdom). On the other hand, in the United States and the United Kingdom, the organizations who hosted focus groups were for people with disabilities who were interested in employment, but not necessarily currently involved with an employment service provider. The race/ethnicity of each sample was also a nowhere the difference. The vast majority of the samples in Australia (19/24 or 79.2%) and the United Kingdom (12/15 or 80%) said that they were white or Anglo, so the minority perspective is missing from the analysis. However, only eight of the 19 (42%) identified as white or Anglo in the United States. While this is consistent with the 2000 census on racial population in Chicago (United States Census Bureau, 2000), it emphasizes the differences between the cities. The 2001 United Kingdom Census shows that nearly 92 per cent of Leeds is white (Office for National Statistics, 2001). Similarly, 92 per cent of Australia is Caucasian (Multicultural Disability Advocacy Association, 2008), though Sydney is more diverse and 16.9 per cent of its population is Asian or Pacific Islanders alone (Australia Bureau of Statistics, 2008).

A related limitation is that the analysis treated people with disabilities collectively. Aside from a few examples in the individual chapters, the dissertation did not systematically address sub-groups of the population, such as racial minorities or women. Future research is needed to address these concerns.

H. **Research Significance**

Specifically, this dissertation brought together various areas of current academic research and addressed gaps in the literature: (i) little systematic work has been undertaken in the United

States, Australia or the United Kingdom on the effects of an increasingly dominant neoliberal policy environment on disability employment policies and programs; (ii) there are unresolved tensions in disability policies in the three countries that are becoming increasingly problematic, as policy-makers face new economic, political and social challenges; (iii) the CRPD brings new trends and challenges to be consistent with rights-based principles in their policies; (iv) there are few personal accounts of the experiences of people with disabilities within neoliberal policy approaches; and (v) the interaction of neoliberalism and human rights has not been adequately addressed, particularly in relation to disability policy (Parker & Owen, 2009).

This dissertation completed case studies of the United States, Australia and the United Kingdom. Each case study describes the current policy context and provides an analysis of welfare to work policy using contextual data and the perspectives of people with disabilities within those policies and programs. The case studies can stand alone or be used comparatively. Alongside the welfare to work/neoliberal aspect of the disability is an emphasis on human rights for people with disabilities. The most significant impact of this research is that it describes the extent to which national policies are consistent with human rights; that is, it shows if/how neoliberalism and human rights coexist in the domain of employment for people with disabilities.

Methodologically, this research design could be easily replicated in a variety of settings, making it a valuable example of comparative methodology. It could be expanded to additional cities within the nations in order to substantiate the findings of the project. Secondly, while this project focused on liberal welfare states, the design could be adapted to wider range of countries to explore the human rights experiences within other welfare regimes. Finally, the design could be replicated in another substantive area. While, this dissertation focused on labor market

programs for people with disabilities, other research could look at other domestic policies in light of the CRPD (or other United Nations human rights treaties). This could include health care for children or people with disabilities, education policies, and employment for women, among others.

This dissertation is also a critical addition to the field of Disability Studies, because it takes a Disability Studies approach to policy studies. Within this conceptualization of disability, the disparities and inequalities that societal structures produce are the focus. The dissertation emphasized that governments have to protect human rights and reduce these disparities and inequalities for people with disabilities. Therefore, it is a key addition to the field of Disability Studies and the field would benefit from more comparative studies and policy analyses that examine experiences of human rights in a variety of policy contexts. Research of this nature adds to the field's interdisciplinary nature, and policy research is currently under developed in the field.

The next three chapters of this dissertation contain the individual case studies of each nation, beginning with the United States and followed by Australia and the United Kingdom. The final chapter of this dissertation contains the systematic comparison of these case studies and highlights the similarities and differences between their policy approaches, while offering lessons that they can learn from one another.

IV. The United States¹¹

As a liberal welfare state, the United States has typically offered meager and means-tested benefit systems; relying on employment as the means to citizenship and a decent standard of living. Welfare policy in the United States traditionally separates the “deserving” and “undeserving” poor, distinguished through participation in the labor market and equating the “undeserving” poor as morally at fault for not working. Rather than considering structural issues in the market, blame is placed on an individual for being lazy or not wanting to work (Handler, 2004). Over the past two decades, in response to growing levels of benefits and the perceived “culture of dependency,” the United States began a series of neoliberal welfare reforms that emphasized welfare to work, notably the 1996 Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA). Influential policy analysts like Lawrence Mead and Charles Murray believed that working for welfare would help to instill work ethic and a sense of community in beneficiaries (Prideaux, 2001). Reforms instituted by PRWORA, and still in effect, include a five-year limit on benefits and required the labor market activity of beneficiaries. While this policy is largely considered to be a success in terms of reducing caseloads and welfare expenditures (Besharov, 2008), they primarily impact young mothers. People with disabilities are not specifically targeted as part of this reform, and continue to be considered among the “deserving poor,” without a large coordinated effort of well implemented programs directed at increasing their labor market participation. The labor market situation of people with disabilities lags behind that of people without disabilities, both in terms of labor market participation and income (see below for additional detail). Despite the existence of strong

¹¹ Condensed versions of parts of this chapter have been submitted for publication (journal withheld) under: Parker Harris, S., Owen, R., & Jones, R. “Disability rights and workfare policy in the United States”

antidiscrimination legislation for people with disabilities since 1990, the majority of studies suggest there has been little or no impact on the labor market participation of people with disabilities (Blanck, 2000b; Burkhauser & Stapleton, 2003; Donohue III, et al., 2008; Karger & Rose, 2010). While some evidence has showed that the Americans with Disabilities (ADA) had a positive impact for some groups of people with disabilities, Blanck (2000b) argues that these are not necessarily due to the ADA, because the trend had started before the ADA was adopted. In addition, disability benefit rolls grew quickly, with expenditures doubling from 1989 to 2009 (Burkhauser & Daly, 2009). In the late 1990s, Congress decided that a more active strategy was needed, so the Ticket to Work and Work Incentives Improvement Act (TTW) was adopted in 1999. It embodies many neoliberal values, including promoting individual responsibility to participate in the market and focusing on training programs to make a beneficiary more job ready. However, TTW is a voluntary program and operates in a policy context of various disjointed employment incentives and a benefit climate that creates policy barriers to employment (Wittenburg & Favreault, 2003).

The implementation of welfare to work policies for people with disabilities around this time was common for OECD countries. Like the United States, they faced the challenge of reducing the number of disability beneficiaries, which the OECD (2009a) now suggest can be achieved with a dual focus on welfare to work and structural reforms. That is, welfare to work can be successful for people with disabilities if they have equal opportunities for full participation and human rights. As outlined in Chapter 2, human rights for people with disabilities are outlined in the United Nations Convention on the Rights of Persons with Disabilities. Although it has not ratified the CRPD, the United States has signed it, which gives

them a “moral obligation” to adhere to its principles (Parker, 2006). The National Council on Disability (2008a) argues that disability policy in the United States is already largely consistent with the CRPD, so there is no legal reason why they should not sign it. However, the report does note that some of the areas that the United States could improve on include positive recognition of disability and moving beyond equality to promoting equality of opportunity. This chapter focuses on efforts in the United States to move beneficiaries who receive disability benefits into the labor market, particularly through Ticket to Work and the Employment Networks that have developed from that legislation. The chapter explores the consistency of policy in the United States with the principles that underpin the CRPD specific to welfare to work. The chapter is divided into two parts. The first details the policy and programs, political context, and the local setting that impact the employment of people with disabilities in the United States. The first part of the chapter is guided by the first research question:

- What policies/programs have been implemented regarding welfare to work for people with disabilities in the United States?

The second part of this chapter draws on the focus groups that were conducted with 18 people with disabilities in Chicago during November and December of 2010. Six themes emerged from the perspectives and experiences of people with disabilities: (i) national legislation and discrimination; (ii) perceptions of people with disabilities; (iii) accommodations and accessibility; (iv) responsibilities of citizens and government; (v) dissemination of policy information; and (vi) the intersection of employment, income support and other benefits. The aim of this section is to address the following additional research questions:

- Under which conditions is the implementation of welfare to work policies for people with disabilities in the United States consistent with a human rights approach as outlined in the CRPD?
- How do people with disabilities experience welfare to work programs/policies in the United States, and is that experience consistent with national implementation and rhetoric?
- Which aspects of policy implementation and the overall policy context in the United States are useful for promoting an international human rights approach and which result in tensions between human rights and neoliberalism?

In the conclusion of this chapter, it is argued that future reforms to disability employment policy in the United States must incorporate reforms to the current welfare to work system, as well as broader structural reforms. In particular, TTW needs to be reformed so that all people with disabilities can benefit from the services that are offered, and Employment Networks are encouraged to work with all people with disabilities. On a structural level, disability employment needs to be de-coupled from welfare and healthcare benefits to enable streamlined policies that encourage and sustain people with disabilities moving into the labor market.

A. **National Context**

1. **Rights and antidiscrimination**

Federal antidiscrimination legislation for people with disabilities was first contained in the Rehabilitation Act of 1973. Section 504 of the Rehabilitation Act covers government bodies or entities that receive federal funding and made it unlawful to discriminate against people with physical or mental disabilities. Section 504 also included reasonable

accommodations for employees with disabilities, rules on program accessibility, guidance on effective communication, and regulations for building construction or alterations (Scotch, 2001). In 1990, the Americans with Disabilities Act (ADA) provided an important expansion of Section 504 (Blanck et al., 2004; National Council on Disability, 2002; Scotch, 2001). The ADA is a civil rights law and has a strong focus on employment and ending discrimination that prevents people with disabilities from working. Prior to this, most disability laws were focused on benefits or welfare, but the ADA was about equal access (Miller, 2004).

The ADA is broad-based legislation that was intended to eliminate discrimination against people with disabilities and promote their inclusion in society. Antidiscrimination legislation for people with disabilities follows directly from the perceived success of such laws in addressing gender and race discrimination, especially when they use international rights-based language (National Council on Disability, 2002). The ADA covers a wide range of policy initiatives, including public accommodations and communication. Title I of the ADA is specific to the employment of people with disabilities, and prohibits discrimination at all stages of the employment, as well as establishing that employers must provide reasonable accommodations for employees with disabilities. These provisions are tempered by the interests of the business community, for example, small employers are exempt from full compliance with the ADA, and the resources of an organization are considered when determining whether an accommodation is “reasonable” and is not an “undue burden.” However, Scharzt et al. (2005) found that employer size is not related to whether a business provides accommodations, and most businesses realized that accommodations are cost beneficial in the long run. Therefore, accommodations are a right

of people with disabilities, but it can also be beneficial to neoliberal economics that is concerned with employee efficiency, at least over time, if not immediately.

Definitions of disability are important in disability policy. The ADA uses the same definition as Section 504. That definition has three prongs: (i) a physical or mental impairment that substantially limits one or more major life activities; (ii) a record of such impairment; (iii) or being regarded as having such impairment. Thus, the ADA also protects against history and perception of an impairment (Silverstein, 2000). Silverstein points out that definitions are often crafted to achieve the goals of policy. For example, in civil rights legislation (the ADA), disability is defined for the purpose of determining which individuals will be protected by the legislation. Alternatively, welfare benefits (e.g. Social Security programs, which are detailed in a later section) define disability differently, in terms of inability to work, to determine eligibility for assistance. Each definition is based on different assumptions about disability and leave people with a choice between welfare benefits and employment (Bagenstos, 2004; Diller, 1998). The ADA emphasizes that people with disabilities should be able to work and do not need to be on the benefit rolls, which is especially problematic for people with disabilities who face social and physical barriers to work (Bagenstos, 2004). However, the ADA approach focuses on creating equality between people within the labor market, with little regard for creating opportunities so that equality of opportunity is greater, which is something the CRPD stresses. The CRPD take a more active approach to inclusion and policy than the ADA. Definitions of disability in these policies leave people with a choice between work or welfare, there is not much in between. This is a theme that recurs throughout the analysis in this chapter, as many people with disabilities are afraid of losing their benefits if they attempt to work.

The ADA articulates four goals of disability policy: to ensure equality of opportunity; full participation; independent living, and economic self-sufficiency (Silverstein, 2000). These goals emphasize the role of individual responsibility, which is further stressed by ADA legal cases that pit an individual against a business and places the burden of proof of discrimination on an individual. The adversarial nature of ADA complaints has negative impacts for many people with disabilities. Vedeler and Schreur (2011) use qualitative research to show that people with disabilities are likely to change their schedule or quit a job rather than try to convince a resistant employer about antidiscrimination and accommodations they need. These findings emphasize the important role that employers have in the workplace accommodation process. Though there are tax credits available and national agencies that can provide advice on accommodations, employers are central to the process. Funding for accommodations is ultimately the responsibility of employers. Employers often hide behind the economic arguments, which is not consistent with the commitment to provide equal opportunities to people with disabilities. This is one of the reasons why additional rights legislation is needed beyond the ADA to promote equal opportunities.

The National Council on Disability (2004) notes a number of positive influences that the ADA has had in the areas of architecture, transportation, and communication. Title II (covering state and local governments) and Title III (covering public accommodations) have curtailed many discriminatory practices in private business and government agencies. The ADA has also had an impact on employment provisions by limiting hiring practices (e.g. by eliminating pre-employment questionnaires and disability inquiries and the misuse of pre-employment physical information). These provisions also increased the prevalence of job accommodations for workers

with disabilities. However, evidence has not shown the ADA to be successful for improving the employment rates of people with disabilities. The ADA may reduce discrimination, but it cannot address structural barriers to equal opportunities for people with disabilities (Blanck, 1999; Blanck et al., 2004). Bagenstos (2004) argues that the ADA has been entirely irrelevant to the ability to get jobs for millions of working-age persons with disabilities. Some studies show that there are more people with severe disabilities in the labor force in recent years (Blanck & Schartz, 2002), but it is difficult to connect this to the ADA (Blanck, 2000b). Many studies (e.g. those in Blanck, 2000b) argue that the employment of people with disabilities declined or remained stable in the economies of the 1990s. At the same time, employment rates increased for people without disabilities (Bagenstos, 2004). More recent evidence reaches the same conclusion (Donohue III, et al., 2008; Karger & Rose, 2010). Although the ADA was designed to increase the participation of people with disabilities, it has not had the impact of facilitating full and equal participation of people with disabilities in the labor market.

Karger and Rose (2010) argue that although the ADA was created to remove barriers to employment, it may have led to other barriers. Primarily, employers report concerns of the economic costs of the ADA. Tens of thousands of lawsuits are filed each year regarding the ADA. While employers win 95 per cent of lawsuits and 85 per cent administrative complaints, litigation is still expensive. There is also disagreement about the economic cost of the ADA. The cost of accommodations is relatively low, usually less than \$500, and accommodation like flexible schedules can help to increase productivity and retention, so accommodations are largely cost beneficial (Schartz, Hendricks & Blanck, 2006; Schur, 2003b). However, some employers have argued that accommodations that impact work schedules require more staff and foster

resentment among coworkers. Research (Houston, Lammers, & Svorny, 2010) with people who are deaf or hard of hearing supports this position. The ADA did not make it easier for them to find employment, and the people involved in that study believed it was because employers were concerned about the cost of accommodations. These concerns may lead some employers to avoid employing people with disabilities, if possible, because of lack of knowledge about the accommodations and perceived economic consequences (DeLeire, 2000; Kruse & Schur, 2003).

Flexibility is another concern within the labor market. The structure of work can limit the employment of people with disabilities. There is not enough flexibility in standard work schedule for many people with disabilities, especially those who need time in order to manage their health. Flexibility can also help when workplaces are geographically inaccessible or where there is not adequate transportation. Telecommuting and working from home can help to overcome these barriers (Schur, Kruse & Blanck, 2005). There is little evidence that accommodations are used often, only 18 per cent of people with disability who were working, said that they used an accommodation, and the percentage of people receiving accommodations has declined from 1994 to 2000. In response to this, a number of government departments and federal agencies recommend workplace flexibility. Flexibility increases productivity from workers and reduces the cost to businesses. It can help employers recruit and retain workers (Georgetown University Law Center, 2010). Showing flexibility in employment is consistent with the human rights principle of respecting difference. It is not always necessary that employees follow standard schedules and work from a common office. Flexibility allows people with disabilities to use their talents and capabilities in order to meet the demands of employment, but within their own comfort zones.

Since its inception, a series of Supreme Court decisions narrowed the ADA and restricted who qualified for protection, including introducing the consideration of mitigating measures (*Sutton v. United Airlines*) and redefining what constitutes a major life activity (*Toyota v. Williams*). Disability activists grew concerned about the restricted coverage of the ADA and in 2008 they were able to pass the Americans with Disabilities Act Amendments Act (ADAAA) to restore the ADA to its original broad intentions (Imparato, Houtenville, & Shaffert, 2010). ADAAA clarifies three aspects of the definition of disability: (i) people who experience limitations to only a single major life activity are protected under the ADA; (ii) asserts that if an impairment would substantially limit a major life activity when active, that person is still protected by the ADA if it is in remission or episodic; and (iii) mitigating measures, other than eyeglasses or contact, and cannot be used during disability determinations (Rozalski, Katsiyannis, Ryan, Collins, & Stewart, 2010).

There are three major implications of the ADAAA: (i) there is more pressure on employers to provide reasonable accommodations and modifications, because it will be more difficult for them to argue that somebody does not qualify under the ADA; (ii) there will be fewer attempts at temporary disability status, because the Act specifies that it must last longer than six months in order to be protected by ADA; and (iii) the overall number of people with disabilities who are protected by the ADA will increase (Rozalski, et al., 2010). ADAAA establishes a better and broader foundation on which to build more policies and programs to include people with disabilities in society and the labor market and strengthen their economic well-being (Imparato, et al., 2010). It is too early to tell what impact the ADAAA will have on the overall employment of people with disabilities, but they do appear promising. They promote

the human rights principles of nondiscrimination and equality to a wider range of people, so that all people with disabilities are covered, with less room for businesses to exclude some from equal protection under the law.

Batavia and Schriner (2001) argue that antidiscrimination law for people with disabilities remains essential to prohibiting existing and future discrimination; to ensure people with disabilities do not lose the ground they have gained in recent years; and to continue to provide a strong statement that people with disabilities are entitled to all of the rights and privileges of citizenship. Quinn and Degener (2002) do not envision success from the ADA, because of its focus on formal equality rather than promoting equality of opportunity, which implies increased opportunities for people with disabilities to participate. Nonetheless, they maintain that it is still important for national institutions to be involved in the promotion and protection of human rights, as these institutions help bridge the gap between international human rights law and domestic debates about disability law and policy reform.

The National Council on Disability (2008a) notes that policy in the United States for people with disabilities is largely consistent with the CRPD, although there are some gaps, including in employment and income maintenance policies. In an earlier report (National Council on Disability, 2002), they argue that the current call for attention to the human rights of people with disabilities in the United States is a natural continuation of the civil rights tradition and has emerged to challenge existing notions of human rights that have frequently trivialized and ignored the lives of people with disabilities. During the fight for the ADA, leaders in the disability rights movement were careful to illustrate how they were not seeking any form of “special” rights for persons with disabilities. Rather, they wanted basic civil rights grounded in

the concepts of equality, non-discrimination and human dignity extended to people with disabilities (National Council on Disability, 2002; Switzer, 2003). By stressing equality, the human rights principle of respect for difference was not fully embodied. Therefore, the ADA, while important and necessary civil rights legislation, is limited in offering the potential for full and equal participation of people with disabilities.

Nonetheless, antidiscrimination has been a key strategy used to protect the rights of people with disabilities internationally. The ADA was the first domestic antidiscrimination for people with disabilities, and it emerged during a time of international attention to disability rights, notably the World Program of Action and the United Nations Decade of Disabled Persons. The United Nations adopted the Standard Rules on Equalization of Opportunity for People with Disabilities in 1993, and, together with the ADA, the Standard Rules influenced the development of antidiscrimination legislation for people with disabilities in many countries (Jimenez, 2000), and ultimately led to a formal United Nations Convention on the Rights of Persons with Disabilities (CRPD). The CRPD officially recognizes people with disabilities as entitled to human rights, although it does not create any new rights (United Nations, 2006). Despite its influence on the CRPD, the United States has only signed it. Although full ratification would bind the United States to the principles of the CRPD under international law, Parker (2006) argues that signatories have a “moral obligation” to adhere to international law. The rest of this chapter explores welfare to work in the United States and whether or not it is consistent with the CRPD, drawing on the experiences of people with disabilities and the implementation of these policies.

2. **People with disabilities, employment and welfare benefits: a snapshot**

One out of every five adults in the US has a disability, which means that 22 million American families include a person with a disability. Nationally, the disability rate has grown 25 per cent since 1990 and is likely to keep growing as the population ages (Chicago Community Trust, 2010). The United States Department of Labor Economic Situation report for April 2011 (Bureau of Labor Statistics, 2011) shows that for people aged 16-64, 34.5 per cent of people with disabilities participate in the labor market, compared with 76.4 per cent of people without disabilities. When in the labor market, people with disabilities have a higher unemployment rate (16.2% to 8.6%). In 2009, 32 per cent of people with disabilities worked part-time, compared to 19 per cent of people without disabilities (Bureau of Labor Statistics, 2010). A 2010 survey reveals many of the reasons for people with disability that are not working: their health or disability (73%), they cannot find a job in their line of work (56%), they cannot obtain accommodations (37%) and they feared that they would lose their health benefits (23%) (Kessler Foundation/NOD, 2010). People with disabilities are less engaged in the labor market than people without disabilities.

Low labor market participation translates into low income for people with disabilities. Twice as many people with disabilities as people without disabilities (34% to 15%) report that they have a household income less than \$15,000 per year. Low personal income is a primary reason for this (48% of people with disabilities report a personal income under \$15,000). Furthermore, most people with disabilities say that they are struggling to get by, living paycheck to paycheck, going into debt or not saving money (58% compared to 34% of people without disabilities) (Kessler Foundation/NOD, 2010). The low income situation of people with

disabilities has also been recognized in US politics. The Obama campaign organized its disability platform around the fact that people with disabilities were three times more likely to live below the poverty line than people without disabilities in 2006. They included the statistics that the average annual income for a household that includes a person with a disability was \$36,300 and \$65,400 for households that do not have a person with a disability (Obama for America, 2008). The link between poverty and disability is explored in more detail in Chapter 7.

In total, there were 7,519,652 people on Supplemental Security Income (SSI) in the United States in 2009; 6,246,207 people were eligible for SSI because of disability, with another 70,315 people eligible because of blindness. Benefits to people with disabilities in December 2008 accounted for \$37.2 million, and benefits to blind people accounted for \$416,000 of the \$43 million budget. For Social Security Disability Insurance (SSDI), there were 8.3 million people on the program, 7.6 million of whom were workers with disabilities. The program spends \$99.79 billion annually, \$92.99 billion of which goes to workers with disabilities. SSI grew by 2.7 percent in the number of beneficiaries between 2007 and 2008 for people with disabilities and SSDI grew by 4.6 per cent for workers with disabilities over the same period (RRTC-DSD, 2010). Despite the implementation of welfare to work policies, disability benefits are still growing, which highlights the difficulty of moving from welfare to work. Each of these benefit programs is explained in a later section, the point is that a large number of people who receive disability benefits in the United States.

The 2009 American Community Survey shows that 79.1 per cent of people with disabilities had health insurance coverage, compared to 82.5 per cent of people without disabilities. Nationally, the government spent \$276 billion on Medicaid, \$119.6 billion (43.3%)

on people with disabilities. However, people with disabilities made up only 14.8 per cent (8.4 million) of the 56.8 million people who receive Medicaid. People with disabilities comprise 17.9 per cent of federal funding on Medicare. In 2008, 7,336,021 (16.5%) of people enrolled on Medicare had a disability. This continues a gradual trend in the increase of the percentage of funding going to people with disabilities, from 1973, when only 2.3 per cent of the budget was spent on disability (RRTC-DSD, 2010). People with disabilities receive a disproportionate share of national healthcare expenditures. As is discussed in a later section, the link between employment and health care is strong in the US, and eligibility for these programs is typically dependent on receiving benefits, either currently or historically. Reforms are needed to decouple these areas of policy so that healthcare eligibility is not a factor in a person's decision to move from welfare to work.

Education is an important factor to consider alongside employment. 17 per cent of people with disabilities have not completed high school, compared to 11 per cent of people without disabilities. This represents an improvement from 2004, when the same percentage of people without disabilities said they had not completed high school will, but 21 per cent of people with disabilities responded that way. However, only 19 per cent had completed college, compared to 27 per cent of people without disabilities (Kessler Foundation/NOD, 2010). In general, people with disabilities have lower educational attainments than people without disabilities, which constrains their opportunities to participate in the labor market.

3. **The local context: Chicago**

Data specific to Chicago is limited, but the data on the state of Illinois is still illustrative. 2,833,000 people live in Chicago and nearly 23 per cent (600,000) have a disability

(City of Chicago, 2009). Those numbers refer to the 2000 Census, and while the data that follows is slightly newer, it shows that disability is slightly overrepresented in the population of Chicago compared to the national rate of 22 percent. Illinois is home to 12.7 million people, 1.3 million (10.1%) of whom has a disability. So the data that follows is likely skewed away from Illinois as a whole and towards the high concentration in Chicago. Of these individuals, 69.1 per cent are white, 23 per cent are black, 10.4 per cent are Hispanic, 6 per cent are multiracial, and 1.9 per cent are Asian (compared to 73.7%, 13.2%, 14.9%, 8%, and 5% of people without disabilities, respectively) (Chicago Community Trust, 2010). Disability prevalence is slightly higher for females (10.8%) than for males (9.8%) (Erickson, Lee, & von Schrader, 2010). Therefore, people with disabilities are slightly more likely to be women or minorities than people without disabilities. These minority statuses are already marginalized from the labor market, and disability further exacerbates their experiences.

The employment rate of people with disabilities is 35.9 per cent, which is much less than the employment rate for people without disabilities (74.1%). When people with disabilities have employment earnings above \$10,000 per year, their median income was \$19,800, compared to \$30,200 for people without disabilities; median income for people with any employment related earnings was \$21,396 for people with disabilities and \$31,559 for people without disabilities. For people of working age in Illinois, almost one in four (24.9%) of people with disabilities are considered to be living in poverty, compared to 10.9 per cent of people without disabilities (Chicago Community Trust, 2010 referring to data from the 2009 American Community Survey and/or 2010 Department of Labor statistics). Data from the 2008 American Community Survey show that people with disabilities only worked full time 25 per cent of the time, while 60.3 per

cent of people without disabilities worked full-time. For full-time workers, the median income for people with disabilities was \$37,700, compared to \$43,800 for people without disabilities. There is also a gap between the median income of households that have a person with a disability: \$42,800, and \$66,200, respectively (Erickson, et al., 2010). These economic indicators show that for every statistic available, people with disabilities have less income or resources than people without disabilities. Employment is critical for increasing the standard of living of people with disabilities, because a decent standard of living is not possible without employment. When people are employed, the income disparity between people with disabilities and people without disabilities is diminished (although still sizable).

The percentage of people who have healthcare coverage was similar between people with and without disabilities (82.6% to 82.8%). However, people with disabilities are more likely to rely on public healthcare, such as Medicare (23.4%) or Medicaid (29.6%) than people without disabilities (1% and 5.7%, respectively) (Erickson, et al., 2010). 18.3 per cent of the working age population with disabilities in Illinois receives SSI (Erickson, et al., 2010). This accounts for 265,000 people, 233,000 of whom have a disability. In addition, 296,000 people are on SSDI, and 251,000 of them are workers with disabilities (RRTC-DSD, 2010). This shows that there are a number of people with disabilities receiving income assistance and using public healthcare systems. Employment is a way to diminish their use of these systems and promote higher income for people with disabilities, because employment is often associated with healthcare, and people will no longer need to receive Social Security benefits.

Education is another area where people with disabilities lag behind people without disabilities in Illinois. For instance, for people with disabilities, 32 per cent have only a high

school diploma, 31.2 per cent have completed some college, and only 13.4 per cent have a bachelor's degree or higher (compared to 24.2%, 31.9%, and 33.5% for people without disabilities, respectively) (Erickson, et al., 2010). These results replicate findings from the United States as a whole; people with disabilities have lower education than people without disabilities, which constrains their opportunities in the labor market. Rights-based legislation is needed to ease these disparities and promote equality for people who face structural challenges.

The Chicago Community Trust (2010) released a discussion paper for policymakers in Chicago that discusses the goal of greater equality for people with disabilities by 2015, and highlighted employment and education as key policy domains. Illinois has been slow to adopt progressive measures in these areas and their policies lag behind the rest of the country. Illinois has only 63 Employment Networks (ENs, detailed in a later section). Chicago is home to a pilot program run by Health and Disability Advocates that offers ENs money up front when they received a client. Still, the low number of ENs to begin with, limits how effective that policy can be. In Illinois, ENs can elect not to accept a ticket, although in Illinois, the Division of Rehabilitation Services is required to work with any tickets that people propose for disability employment services (Goldstein, n.d.), although a later section highlights how ineffective Vocational Rehabilitation can be, especially for people with more severe disabilities. Given the labor market, economic, and educational gaps facing people with disabilities, Illinois, and Chicago, could benefit from a larger, more widespread effort at employment services for people with disabilities. The few programs that are available are very isolated from one another, lack the resources to be effective, and are difficult for people with disabilities to locate and engage with.

4. **The political context**

Traditionally, US social policy has been based around employer provisions rather than the state; workers do not have a strong social safety net outside the market, and there are not structures that support the market itself. Risk has been placed on individuals and families. However, the time may be ripe for widespread reforms. Two issues are especially critical: (i) deep inclusion, which calls for universality and resisting the pressure to exclude some groups from reforms, and (ii) because Americans now have a distrust of government, it will require creative ways to build support for policies that expand government activity (Boushey & Tilly, 2009). People with disabilities have typically been treated differently within social policy, and new approaches are needed in order to ensure their full and equal participation alongside other groups impacted by reform to welfare services.

Mainstream welfare reform in the United States was guided by rising welfare caseloads. As Prideaux (2001) notes, neoliberal welfare reform in the United States was initially propelled by figures such as Lawrence Mead and Charles Murray, who saw welfare to work as serving the functional purpose of instilling a work ethic and sense of community in beneficiaries. By valuing activity over passive welfare, the government has moved in the direction of policies that reflect a person's character and culture (i.e. welfare dependency). In doing so, the reforms move away from the purely economic rational of neoliberals to a neoconservative analysis. This approach re-conceptualizes citizenship away from entitlements and towards the recommodification of individuals through participation in the labor market (Shaver, 2002). These ideas were part of reforms that occurred in 1996 through the Personal Responsibility and Work Opportunity Reconciliation Act, which instituted a five-year limit on social assistance benefits and required

work of beneficiaries. Many politicians, from the left and right alike, regard the 1996 welfare reforms as a resounding success, as evidenced by the 65 per cent reduction in welfare caseloads and “little sign of serious additional hardship” (Besharov, 2008, p. 37). While the reforms compelled single mothers and young, unemployed men to actively seek employment in return for welfare benefits and limited the length of time for which they could receive benefits, they had little effect on people with disabilities because people with disabilities were not heavily involved in temporary welfare benefits like Aid to Families with Dependent Children (which became Temporary Aid to Needy Families (TANF) following the reforms). Rather, most of them receive Supplemental Security Income or Social Security Disability Insurance.

In the years leading up to PRWORA, TANF beneficiaries were increasingly viewed in a negative light. Clinton’s PRWORA reforms had broad-based support from both parties, and the Bush administration built on this. Under Bush, there was an emphasis on family and marriage; universal engagement (i.e. removing the caseload reduction incentives for states that allowed them to exempt some beneficiaries as long as they were able to reduce their caseloads); and attempts were made to consolidate other benefit programs into a single benefit (although this last part was removed from the final act, the Deficit Reduction Act of 2005). A group of Republicans led most of these reforms and were guided by the belief that: (i) welfare recipients have to be forced to work because they will not take that step by themselves; (ii) marriage and family are essential and welfare recipients need to change their behavior to be more like the middle class; and (iii) poverty is a result of moral failures or behaviors that need to be changed (Daguerre, 2008). Daguerre further argues that because there is not a legitimate American welfare state, social assistance programs were open to neoliberal attacks; public support is only for the

deserving poor, and other benefits are portrayed as related to individual problems, rather than giving consideration to demand-side issues. The work-first approach dominates, and welfare recipients are a weak constituency that is open to political and ideological attack. Politicians in the United States favor employment, and there are few advocates for expanded welfare programs. Individual responsibility for social problems is increasingly the accepted policy response.

1996's PRWORA marked a significant shift in the approach to welfare in the United States. It involved changes to personal responsibility, reinforced conditionality and restricted entitlement. Reform is being driven by two agendas, one that emphasizes personal responsibility, obligation and personal behavior; and an entitlement agenda that stresses the right to work training, opportunities for employment and a living wage. The right to work and earn a living wage has replaced the right to financial support within the social contract (Gilbert, 2009).

Despite that philosophical shift, in the last 20 years, disability benefits have doubled in size and cost, while the economic well-being and labor market participation of people with disabilities has stagnated. People with disabilities are marginalized from the labor market and do not have adequate employment programs or policies available to encourage them to move from welfare to work. While the employment and economic well-being of single mothers have improved since 1996, employment rates and household income for people with disabilities has fallen (Burkhauser & Daly, 2009; Stapleton & Burkhauser, 2003). The difference is that PRWORA transferred single mothers from a passive benefit program to a work-based system that encouraged their employment. Despite efforts by the Social Security Administration (SSA) to introduce employment incentives, people with disabilities it is difficult to leave benefits unless

they work close to full time and have access to healthcare. Opportunities for the full and equal participation of people with disabilities are limited because of the barriers that people with disabilities face. Healthcare needs to be de-coupled from receiving benefits so that the potential of losing health care coverage is not a barrier to people with disabilities as they move into the labor market. The ADA remains the only federal policy that approaches people with disabilities as workers, most others treat them as welfare beneficiaries first, which limits their employment because of SSA definitions of disability. The ADA is limited because it promotes equality, but not increased opportunities for people with disabilities to participate. The human rights approach calls for equality of opportunity, rather than formal equality alone, which is the ADA's focus. Burkhauser and Daly (2009) suggest that more pro-work policies are needed so that work pays for beneficiaries and encourages them to participate in the market. The following section outlines the policies and programs that are available to people with disabilities to promote their labor market participation.

5. **The policy context**

The participation of people with disabilities in the labor market is influenced by a number of policy domains. While a comprehensive review of the national policy context beyond employment policy is outside of the scope of this dissertation, an overview of US welfare and employment policies for people with disabilities is essential to understanding the welfare to work reforms that this research focuses on. Discussion of these policies and how they relate to neoliberalism and human rights is contained in this section.

a. **Welfare policies**

i. **Development**

In 1935, the Social Security Act set up a welfare system with two approaches to welfare benefits. The first is a system of social security for people who have a history of labor market participation, which consists of protection for old age and short-term unemployment. The second direction is a system of social assistance, primarily for families with dependents, and is much less generous than social security (Myles, 1996). These systems are perceived differently by the population. Social security is generally viewed with respect and understood to be a right or entitlement that is to be safeguarded and defended. On the other hand, social assistance has been considered stigmatizing and is residual and discretionary (Gordon, 1992). Disability benefits began during the Eisenhower Administration in the 1956 when the Social Security Act was amended to include Social Security Disability Insurance (SSDI), a national program open to all disabilities (rather than only veterans, as was previously the case) with a work history (National Council on Disability, 2005). As the name implies, SSDI is a social insurance program that provides income to people with disabilities to replace earnings that they have missed out on because they could not work (Wittenburg & Favreault, 2003). Supplementary Security Income (SSI) was introduced in 1974 as a federal program that guaranteed a minimum income (as a safety net) for people with permanent and total disabilities who had never worked, and the blind and elderly. It replaced a range of state low-income benefit programs and SSDI/SSI extended healthcare services, Medicare and Medicaid, to SSDI and SSI beneficiaries with disabilities, respectively (Goodman & Waidmann, 2003). From the inception of these programs, a clear distinction has been made between people who have worked and

people who have not. This is an important development for current policy that favors people who have worked and contributed to the labor market as deserving of social assistance with more generous benefits.

ii. **Social Security programs**

The difference between SSDI and SSI is who is eligible for each program. While the same medical requirements for eligibility apply to each and the same process is used to determine if a person's impairment meets the criteria for eligibility, employment history is the differentiating feature. People with disabilities are only eligible for SSDI, if they have a history of contributions to the federal Social Security system, meaning they have had employment and paid taxes. On the other hand, SSI is available to all the people who qualify because of low income; that is, SSI is means-tested and not related to employment (Goodman & Waidmann, 2003). Monthly SSDI payments are higher, which emphasizes the importance of employment history in the policy. People who have contributed to the economy have an advantage within American welfare policy; they are considered to have contributed to the economy and are therefore deserving of a social assistance. Furthermore, SSDI is not means-tested, so, while there are still limits on how much a beneficiary earn, they do not face as many disincentives to returning to work, as they do not have to be as careful about their assets.

The medical eligibility rules for SSI and SSDI embody the medical model of disability. Eligibility for these programs is dependent on having a disability, which is defined as the "inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months" (cited in National

Council on Disability, 2005, p. 42). The 1984 Disability Benefits Reform Act involved the development of statutory standards for evaluating disability. This Act made it harder to terminate a recipient's benefits, gave more weight to the assessment of the applicant's physician and broadened the list of conditions considered to be disabling, most notably making it easier for person with psychiatric disabilities and chronic pain to qualify for benefits (Goodman & Waidmann, 2003).

As policy commentators have noted, this definition creates problems with other disability programs that use different definitions of disability. Berkowitz (1987) argued that these differing definitions would have an impact on disability policies in general, but these have not been addressed and have been exacerbated in recent years with the interest in moving people with disabilities from welfare to work. The SSDI and SSI programs are based on a policy principle that assumes a permanent incapacity to work, and this "all-or-nothing" nature creates challenges for the SSA to promote employment or welfare to work reforms that move people with disabilities off of benefits. Wittenburg and Loprest (2004) ask an important question, "How do you provide return-to-work services to a population of participants who must show a permanent inability to work at the time of application to qualify for benefits?" This is an important concern considering that the number of people receiving disability benefits has grown exponentially and the government is facing pressure to reduce benefit expenditures (OECD, 2009a). For instance, in 2009, 4.6 per cent of American adults are received SSDI, double the rate of 2.3 per cent from 1989 (Autor & Duggan, 2010). Historically, only 0.5 per cent of beneficiaries leave the disability benefit rolls because of the employment (Thornton & O'Leary, 2007). People with disabilities who receive SSI stay on benefits for an average of 20 years (Berry & Caplan, 2010). Thus,

benefits are growing, and people stay on the rolls for a long time. Therefore, efforts to move people off of benefit rolls or encourage their employment rather than receiving benefits are important concerns for policymakers.

Disability and employment are no longer mutually exclusive. Advances in medical technology, changes in the nature of employment (less physical stress), and the availability of accommodations and assistive technology mean that people with disabilities can be expected to work, as emphasized by the ADA, because many barriers to their participation are now diminished (Autor & Duggan, 2010). The ADA removes barriers so that people with disabilities have greater opportunities to participate. However, the definition of disability that is used by the Social Security Administration is outdated. As it stands, this definition of disability encourages people to make a choice between employment and welfare, which reduces equality of opportunity for people with disabilities to participate in the labor market and society. Not only does this choice impact income benefits, but because SSI and SSDI are linked with eligibility for medical benefits, it becomes even more difficult for people with disabilities to avoid benefits.

One of the main problems with disability benefits is that healthcare benefits are tied to welfare program eligibility (National Council on Disability, 2008b). This feature of American public policy sets it apart from the other countries in this study; Australia and the United Kingdom each have universal healthcare systems, so employment and welfare is separated from disability benefits. In the US, this continues to be a major barrier in moving people from welfare to work as many people with disabilities perceive the loss of benefits as too great a risk, particularly in the broader context of precarious employment opportunities and attitudinal barriers towards them as workers.

People who receive SSDI are eligible for Medicare, the national health insurance program run by the federal government. Medicare is for people with disabilities and people over age 65 and consists of several parts, including hospital coverage, coverage for medically-necessary treatment, and prescription drug coverage. On the other hand, people who receive SSI are eligible for Medicaid, which is a network of health insurance programs run by individual states. It is a program for low income individuals and families that covers a range of services, depending on state rules, but could include medical services, equipment, and nursing home coverage. People who receive both SSDI and SSI can receive both Medicare and Medicaid, although Medicaid typically is the primary insurance program. Many people with disabilities rely on these programs for their health insurance, which encourages them to remain eligible for benefits and is a barrier to their labor market participation.

Social Security programs further limit individual economics in many ways. They act as a barrier to employment for many people with disabilities by restricting the amount of employment they can perform without losing their benefits and the amount of assets and resources they are allowed to have before they are no longer eligible for benefits. Getting reinstated to benefits if they lose their employment is an arduous process so that many people with disabilities do not take the risk of trying employment because of uncertainty about the future (Berry & Caplan, 2010; Hemmeter, Kauff, & Wittenburg, 2009). The programs do not accommodate partial benefits (Mitra, 2009). While people on these benefits are allowed to work to an extent before losing their benefits (limits on income are discussed in more detail later this chapter), the amount that they are allowed to earn plus their benefits restricts their standard of living. Receiving benefits from SSI is also a disincentive to saving and asset accumulation because people

receiving SSI benefits can only have \$2000 in assets for individual and \$3000 for married couples. In most cases, the assets and income of people with disabilities lag behind that of people without disabilities, which creates challenges to economic self-sufficiency in the future (Parrish, Grinstein-Weiss, Yeo, Rose, & Rimmerman, 2010). The application process for SSA programs is another barrier to economic self-sufficiency and labor market participation. For example, determination of SSDI eligibility is lengthy, with the average applicant waiting for over one year for benefits. The structure of the program discourages employment because people who are applying have to show that they are unable to work (Autor & Duggan, 2010). Relaxing these rules would allow people with disabilities to better prepare for the future and prepare for a move off of benefits.

Recent reforms have introduced several work incentives that reduce the barriers for people with disabilities receiving benefits who want to work. Health and Disability Advocates (2008) identify several of these, many of which are explained in more detail in a following section. These incentives can work in conjunction with the Ticket to Work, the focus of this chapter, or stand by themselves. For people who receive SSDI, incentives include the trial work period (for any nine months over a five-year period, beneficiaries can keep all of their earnings and still receive benefits) which is followed by a grace period (beneficiaries can maintain their benefits for the next three months); extended period of eligibility (beneficiaries remain eligible for benefits for three years after trial work period if their income do not meet the limit for a given month); subsidy/special conditions; extended Medicare (beneficiaries retain their Medicare for 93 months after finding employment); expedited reinstatement of benefits (beneficiaries have five years of eligibility that expedites the application process if they need to return to benefits);

and they are eligible for Ticket to Work. SSI beneficiaries have slightly different incentives, including income exclusions (beneficiaries are allowed to exclude part of their benefits when determining their benefit level); Plan for Achieving Self-Support (allows individuals to create a plan that allows them to keep more of their income and resources for a future when they are off benefits); Blind Work Expenses; extended Medicaid service (beneficiaries are allowed to buy-in to state Medicaid plans); Property Essential to Self Support (allows people to have resources that support a business); expedited reinstatement of benefits; and Ticket to Work.

These policies represent a collection of disjoint policies that are confusing and complex; more fundamental and systemic changes are necessary in order to encourage people with disabilities to enter the labor market. For instance, many of them are run by a different federal and state-level agencies or organizations, and rules vary between them. A system to coordinate between them and allow programs to integrate with one another and build on the strengths of other programs would create a more efficient system that is easier to understand and utilize (Stapleton, O'Day, Livermore, & Imparato, 2006). The disincentives that exist – the contradictory nature of disability definitions and the linkage of healthcare with benefits – require a widespread effort to reform disability policy. Ticket to Work, is the most influential reform to date, and this chapter explores the impact that it has had on people with disabilities, their labor market participation, and their human rights within services provided by the resulting Employment Network. People with disabilities have historically been treated as “deserving” recipients of welfare benefits, making them choose between welfare and work, but this chapter is concerned with more recent efforts to include them in the labor market.

b. **Employment programs**

Employment services for people with disabilities who receive disability benefits in the United States are primarily organized around Ticket to Work. Historically, employment services and programs have been operated through the Vocational Rehabilitation system. In 1998, the Workforce Investment Act created One-Stop Centers, as mainstream unemployment offices that combine deployment services and welfare benefit information in a single location, and the Act specifically mandates that they provide services for people with disabilities. Vocational Rehabilitation and One-Stop Centers are briefly reviewed below, and Ticket to Work is discussed in detail, with specific attention given to the interplay between these programs.

i. **Vocational Rehabilitation**

In the United States, Vocational Rehabilitation (VR) began with a focus on military veterans with the Soldier's Rehabilitation Act of 1918. VR expanded in 1928 to people injured at work in 1928 through the Vocational Rehabilitation Act (VR Act). The 1940s saw VR expand again as the population of people with disabilities grew because of advances in medical technology, polio outbreaks, and war injuries. The goal of the VR system was to provide training in feasible employment skills and get people into gainful employment. Thus, any person with a disability who has employment as an ultimate goal is eligible for VR services. People who receive SSI are automatically assumed to be eligible for the program (Berry & Caplan, 2010). VR is operated by individual states through their individual Department of Rehabilitation Services, though the federal government contributes a substantial amount of resources to states to operate VR (Dutta, Gervery, Chan, Chou, & Ditchman, 2008). The majority of funding for VR

services is channeled through VR agencies to the public and nonprofit direct service providers that VR outsources to (National Council on Disability, 2008b). VR can save states money if they can get individuals to enter the labor market, because those individuals no longer use other expensive institutions or segregated training. Due to the potential to reduce expenditures overall, the VR system soon spread to Europe and remains popular in well-developed nations (Metts, 2000). VR emphasizes training, vocational guidance, employment placement and employment support in its programs.

Generally the employment rate of people with disabilities after receiving these services is around 60 per cent, but in recent years researchers have explored which services are most effective and what characteristics are related to success. Dutta et al. (2008) examined a national data set on rehabilitation outcomes from 2005 and developed results for three types of disabilities: sensory/communicative, physical, and mental impairments. They found that the average time spent in VR was 25 months for people with sensory/communicative impairments, 28 months for people with physical impairments and 24 months for people with mental impairments. Case expenditures on the average person also varied: \$5,462 for people with sensory/communicative impairments, \$4,816 for people with physical impairments, and \$3,006 for people with mental impairments. Overall employment success rates (defined as employment for at least 90 days in an integrated setting) were greatest for people with sensory/communicative disabilities (75%), followed by physical (56%) disabilities and mental impairments (55%). Employment results for jobs at the professional/technical level followed the same pattern and were 19 per cent, 16 per cent and 7 per cent, respectively by impairment type. The services that were significant facilitators to employment success for all disability types were job placement

services, on-the-job supports, and maintenance services (income for food, shelter and clothing where expenses exceed normal levels). For people with sensory impairments, diagnostic and treatment services are positively related to successful employment; for people with physical and mental impairments, both counselling and job search assistance were key factors. When people involved in VR received cash or medical benefits, they had about a 40 per cent less chance of finding employment. This is significant for the focus on welfare to work, because welfare to work empowers that people are receiving benefits, so VR is less effective for them. Berry and Caplan (2010) show that, two years after leaving the VR system, people with intellectual disabilities are the most likely to still be in employment, but also have the lowest level of income. They found that race did not have an impact on employment outcomes, although African-Americans had higher income levels. People with higher levels of education, longer periods of time on VR, and who applied for at older ages were less likely to find employment. The authors found that job placement services reduced the likelihood of employment two years after first obtaining a job, suggesting that people are not placed into appropriate positions. These results also suggest that people who can receive quick services and move into employment outcomes with little training are the best served under VR.

Two criticisms of VR are that it focuses too much on getting people into work without paying any attention to making the workplaces themselves more accessible, and VR systems tend to waste resources on measures that involve segregated institutional systems that are socially isolating (Metts, 2000). Still, these systems have taken the important step of recognizing that people with disabilities can do productive work if their limitations are mitigated, opening the

door to advances in physical rehabilitation and assistive technology so that more people with disabilities are encouraged to work.

ii. **One-Stop Centers**

One-Stop Centers were piloted in the 1990s and became a national program under the Workforce Investment Act (WIA) of 1998. They emerged from criticism that public employment services in the United States were too fragmented and One-Stop Centers are designed to provide a single access point to multiple public services (often from different government agencies) in order to increase efficiency and reduce costs. One-Stop Center services are available to anyone, without eligibility criteria, and offer core, intensive, and training services to individuals and various education and service programs to employers. Before WIA, people with disabilities were often sent to disability specific organizations for services, but the government has been clear that One-Stop Centers must work with people with disabilities (Boeltzig, Pilling, Timmons, & Johnson, 2010). Therefore, following WIA, these centers often include disability specialist positions, such as Disability Program Navigators (DPNs).

DPNs are a position that was created to help beneficiaries navigate work incentives and return to work services. The position began as a demonstration project, and there were only 475 of these positions available in the entire country as of May 2009. With such a small number of these positions, a very small percentage of people with disabilities have access to them, adding to the disjoint and complex web of services available. These positions are designed to be flexible and meet the needs of the local area. Primarily, DPNs coordinate different partners in order to build capacity for the employment of people with disabilities. They are supposed to educate and train One-Stop staff, increase access in all its forms at One-Stops, work with all people with

disabilities to navigate the supports that are available to them, provide outreach and education to beneficiaries to encourage their participation, and raise awareness and educate more widely, including with employers and the disability community. However, there have been few efforts to evaluate the impact of DPNs. Boeltzig et al. (2010) report that their qualitative evidence indicates that people with disabilities have been very satisfied with their interactions with this position, although there is no evidence of increased employment outcomes. Furthermore, other staff felt that DPNs had a positive impact on One-Stop and more people with disabilities receive services there than before their position they existed. However, DPNs were meant as a short-term demonstration rather than a long-term and widespread position, and there is concern about how those changes will be maintained. With only 475 of these positions in existence and nearly 3,000 One-Stop Centers, these positions were not available in all One-Stops. As discussed below, Ticket to Work builds on these efforts and aims for better integration of return to work services, benefits, and personal advising. DPNs emphasize the importance of integrated service and program navigation to people with disabilities.

iii. **Ticket to Work**

The Ticket to Work and Workforce Incentives Improvement Act (TTW) is the primary initiative that encourages people with disabilities who receive benefits to work in the United States. The legislation provides a “ticket” to beneficiaries that can be exchanged for employment services from a provider registered as an Employment Network (EN), which include private providers, One-Stop Centers, and state Vocational Rehabilitation services (Boeltzig, et al., 2010). The objective of this legislation was to provide people with disabilities more opportunities to participate in employment; reduce disincentives and inherent

risks in transitioning from income support to employment; and to increase individual financial well-being while simultaneously decreasing dependence on welfare benefits (National Council on Disability, 2005). TTW differs significantly from PRWORA, because TTW is a voluntary program. All people who receive disability benefits receive a ticket that they can choose to redeem with a service provider or not. Providers and beneficiaries work together to develop an Individualized Work Plan that guides individual experiences in the program. However, the influence of neoliberalism is clear as the program emphasizes labor market participation and includes incentives that make employment more attractive than remaining on benefits. In addition to employment services and training, TTW extends Medicare coverage and establishes rules so that beneficiaries can buy into state Medicaid programs, so that beneficiaries can maintain healthcare coverage when they move into employment. However, evaluations of the program have shown it to be largely ineffective as only a few tickets (1.4%) have been redeemed (Thornton, et al., 2006; 2007). Initial findings from Phase 1 (which includes Illinois) of TTW rollout showed it had no impact on the earnings or benefits of individuals. Furthermore, it only increased the total number of people with disabilities who enrolled in employment services by less than one per cent, which is consistent with the low participation rate (Wittenburg, et al., 2007).

In Section 2(b) the Act states four purposes: (i) to reduce dependency on benefit programs by providing healthcare and employment preparation and placement services; (ii) to encourage States to offer people with disabilities the option of purchasing Medicaid coverage in order to maintain employment; (iii) to give people with disabilities the option of maintaining Medicare coverage while working; and, (iv) to establish a program that allows people with

disabilities to redeem a ticket in return for employment services. TTW legislation implies it would be a success if they increase the number of people who left benefits because of work from 0.5 to one per cent. Thornton and O’Leary (2007) argue that this may seem small, but it represents a substantial goal, because SSA programs are so large and because SSA does not have a history of providing employment services.

Theoretically, TTW offers people with disabilities more choice of employment service providers, because people with disabilities historically received employment services through VR. Public and private agencies are able to enroll as ENs and be reimbursed for their services, so there should be a wide variety of options available to ticket holders. However, the Employment Network has not had this impact on the market for employment services. Concerns about financial feasibility, low demand for services, and administration of the program have limited the number of agencies who register as an EN (Silva, 2007). Thornton and O’Leary (2007) argue that it is not surprising that there has not been a bigger impact. Providers need time to work with beneficiaries, and the program needs time to establish and build momentum. While 26 per cent of working age beneficiaries with disabilities think they will be able to work and stop receiving benefits within five years, less than 2 per cent have redeemed their ticket as of March 2007 (Thornton & O’Leary, 2007). Interest in employment services for people with disabilities is strong, but currently there is not enough supply or demand to allow TTW to work and these interrelated issues need to be addressed.

Providers have two payment systems available to them. Under Outcomes-Only, they receive smaller payments every month for up to 60 months after a beneficiary stops receiving benefits because of their earnings. Under the Milestones-Outcomes system, they receive a larger

payment for four different milestones a beneficiary reaches (completing training, education, have certain number of hours worked per week on average, etc.) before moving to the outcome system when the beneficiary leaves the benefit rolls. Outcomes are paid a percentage of the national average monthly benefit. If a beneficiary finds work for the full five years, ENs earn between \$10,000 and \$11,800 (SSI) or \$16,700-\$19,700 (SSDI). Nonetheless, ENs reported a large financial risk with the program. Many have to work with an individual for years before receiving their first payment; in fact, a 2005 survey showed that only 41 per cent of ENs had received even a single payment after accepting a ticket (Silva, 2007). Furthermore, ENs were discouraged by the onerous process of collecting paystubs from beneficiaries in order to process a reimbursement (National Consortium for Health Systems Development (NCHSD), 2009). Financial concerns led many ENs to restrict who they accepted (for instance, many do not consider SSI beneficiaries because they require a high level of up front expenditures) or to only work with people who they already have a relationship with. Only about 11 per cent (SSI) and 17 per cent (SSDI or dual) of tickets resulted in payments in the first two years. Providers need a much higher number of people with disabilities to enroll in order for it to be financially feasible (Silva, 2007). The constraints that ENs face encourage them to “cream” potential participants, and only work with those for whom they are relatively certain that they can achieve employment outcomes at a pace that allows them to be financially secure. That is, built-in features of TTW limit full and equal participation to a small number of people with disabilities. Equality of opportunity is denied to those who may need more services or a longer amount of time on the system.

Of the tickets that have been redeemed, the vast majority of tickets are assigned to state VR services (91.7%). State VR services can opt for traditional payments where they are reimbursed for the services they provide, which is the most popular payment system (85.6%), followed by Milestones-Outcomes (11.5%) and Outcomes-Only (2.9%). Ticket to Work was rolled out in three stages, with very low participation rates in each phase (1.4% in phase 1, 0.9% in phase 2, and 0.6% in phase 3). Illinois is part of phase 1. People who use their tickets at ENs received fewer services but are more likely to be employed and have higher income than through state VR services. In general, people who are younger, more educated, have sensory impairments, African American or who receive SSDI rather than SSI are more likely to participate. People who have been on benefits for more than five years are the least likely to participate. In addition, people receiving other benefits (private disability insurance, food stamps) are less likely to participate if the value of those benefits is high. If those benefits are less than \$200 per month, they are 60 per cent more likely to participate in TTW than people not on those benefits (Stapleton, et al., 2007).

In addition to a ticket that serves as a voucher to obtain employment services, TTW provides other services to beneficiaries: benefit planning assistance through PABSS (Protection and Advocacy for Beneficiaries of Social Security) and BPAO (Benefits Planning Assistance and Outreach) and improved incentives that allow people to maintain their cash and health benefits (Goldstein, n.d.). Beneficiaries can use PABSS and BPAO in order to better understand how employment would affect their benefits and make plans for return to work. As noted earlier, people with disability to receive healthcare benefits and find employment are able to keep their Medicare for 93 months or buy into state Medicaid plans. Health and Disability Advocates

(2010) emphasizes that, even following Obama's healthcare reform plans, Medicaid Buy-in remains a necessity. If these plans do not continue, many people will be forced to choose not to work in order to be eligible for Medicaid benefits. This erects a barrier to increase labor market Association of people with disability, because they will still be concerned with receiving healthcare. Although they are able to buy in, becoming eligible for the program means that they have to receive benefits or be near poverty at some point. Removing the link between SSA eligibility and healthcare is essential for ensuring the full and equal presentation of people with disabilities in the labor market.

In 2008, TTW was reauthorized by Congress, with a few key changes that attempted to make this system more attractive to potential ENs, as well as ease the relationship between ENs and VR. For Outcome-Only payments, rates have been increased; for Milestone-Outcome payments, there are now three phases (essentially training/education, part-time employment, and full-time employment). These changes increase the funding available, and institute changes to the benchmarks that must be achieved so that payments better align with the needs of ENs. The ENs no longer have to obtain and submit paystubs in order to process payments. As part of these changes, SSA will no longer recover payments made to an EN if they determine that a ticket was invalid because an individual no longer eligible for benefits. The old process of becoming an EN was long and cumbersome, but changes to the regulations ease the paperwork so that the process is less of a barrier to potential agencies. This is especially true for One-Stop Centers, who are automatically qualified to accept tickets as long as they sign an agreement with the government.

Similarly, the role of VR has changed within the system. Previously, people who received VR services could not use their ticket to receive services through an EN, because VR had to

assign the entire ticket to receive reimbursement for their services. But the new regulations make it so that an individual can work with an EN for follow-up services and supports and that EN can receive payments under phase 2 or phase 3. Therefore, the new regulations increase collaboration between public and private services, which the system refers to as the Partnership-plus Model (NCHSD, 2009).

People who are enrolled in TTW have to show timely progress towards outcomes. Outcomes could be work activity or various forms of education. If they do not meet the requirements, they do not lose benefits, but they are no longer protected from Continuing Disability Review (meaning SSA could evaluate them and find them no longer eligible for benefits). The reforms make it so that progress can be achieved by meeting partial requirements in those categories, provided they add up to 100 per cent (NCHSD, 2009). Exemption from Continuing Disability Review is important to beneficiaries because they are able to try to work without the fear of having their benefits taken away while they are trying. This clause eases some of the concern over the contradictions in the definitions of disability that were emphasized earlier in this chapter.

Although these changes are widely regarded as positive, there are debates about whether they do enough. While the payment structure is better, in order to receive the full amount possible, ENs have to reach phase 3, which means that an individual has to completely move off of benefits (NCHSD, 2009). Therefore, the system still encourages full employment outcomes and ENs have little incentive to work with people who might take longer to be economic self-sufficient or who may not have a goal of moving from benefits entirely. The regulations do not encourage ENs to work with them. In this context, the influence of neoliberalism is clear as

participation in the labor market and normative conceptions of work (full-time) restrict who has access to employment services. The international human rights approach to disability promotes equality of opportunity so that all people with disabilities can receive these services. This requires that policy reforms encourage personal work capacity so that people with his abilities to engage with the labor market to the extent that is possible for each of them individually. This is a key policy initiative that is missing in the “all or nothing” policy context of the United States, and would promote greater consistency with human rights principles.

iv. **Other policies**

In addition to TTW, SSI/SSDI beneficiaries are eligible for a number of other programs to encourage labor market participation, although many of them are pilot programs or vary by state. These include programs offered under Medicare Infrastructure Grants or Workforce Initiatives, Early Intervention Demonstration Projects, and a myriad of tax breaks. However, these programs are disjointed and do not work well together. Many of them are operated by different agencies and have a range of rules, so that navigating programs is difficult (Wittenburg & Favreault, 2003). Rather than a system of complex programs, wider reforms are needed that systematically promote policies that allow people with disabilities to be economically self-sufficient (Stapleton, et al., 2006). These policies can work together, but it is unclear if they do. Because citizenship is largely tied to labor market participation, it is important that programs exist that remove barriers and promote equal opportunity for people with disabilities to participate in the market, therefore allowing them to achieve equality. A review of these policies is beyond the scope of this dissertation, although the existence of other, mostly

local or regional, programs is important to note because of the fragmented and disjointed nature of employment services for people with disabilities in the US.

In summary, the policy context in the United States is one that encourages people with disabilities to choose between welfare and work. Although national policies to promote welfare to work for people with disabilities is limited, Ticket to Work is a national program designed to facilitate the move from welfare into employment, while allowing beneficiaries to continue receiving benefits, notably health care. Ticket to Work's goal of improving the choice of employment service providers for people with disabilities and facilitating their participation in the labor market by allowing them to develop Individualized Work Plans is consistent with human rights principles. However, this program has not been used by many people with disabilities and the literature suggests that it may encourage providers to only accept a select few to work with. The need for efficiency and focus on individual responsibility within the labor market exemplify the neoliberal roots of this policy. Economic constraints on ENs under this program prevent it from being more effective. The next part of this chapter explores what would make employment programs for people with disabilities more effective. In particular, the experiences and perspectives of people with disabilities within and on employment services in the United States are used in the next part of this chapter to assess whether the programs are consistent with human rights principles and identify best practices and areas that need to be improved.

B. Results and Discussion

This section presents the results of focus groups that were conducted in Chicago with 18 people with disabilities. Six primary themes emerged from the discussion: (i) national legislation

and discrimination; (ii) perceptions of people with disabilities; (iii) accommodations and accessibility; (iv) responsibilities of citizens and government; (v) dissemination of policy information; and (vi) the intersection of employment, income support and other benefits. Discussion of these themes also occurs in the welfare to work literature pertaining to people with disabilities in the United States. This subsection explores each of these themes and how that data supports the consistency between welfare to work policy and human rights.

1. **National legislation and discrimination**

Interestingly, people with disabilities who participated in the focus groups had little to say about the CRPD. Most had never heard of it, or had heard of it but did not think it would make a difference. However, people with disabilities thought the ADA was important legislation, but it was not enforced enough to make a difference. In discussing what it means for a person to have rights, people with disabilities spoke about being productive members of society, having opportunities to succeed or fail, and to not be discriminated against. Most had experienced significant discrimination and marginalization when seeking employment opportunities and/or in the workplace. Discrimination was considered to be the main source of rights violations. Although people with disabilities and other marginalized groups experienced ongoing discrimination in employment and other rights domains, such groups remain a minority in terms of power and rights. One person noted how:

There are 100 senators and 435 representatives who make the laws for 330 million people. That's a minority over a majority and they divide and conquer. We have our own problems, and there [other groups] ... we're a majority but we

still don't have rights. That small minority keeps us down (Lara, female, age 48, visual disability).

This feeling of powerlessness was common among people with disabilities, as many of them wondered about whether antidiscrimination legislation, such as the ADA, can ever have a significant impact and lead to change. While many people agreed that such legal measures are necessary, the law was not seen as sufficient to provide equality of opportunity and equal participation. Full and equal participation cannot be achieved through legislation, but requires broader structural and cultural measures. Others noted that the ADA could be more effective if there was additional support and enforcement of the intentions behind the legislation. One person linked this back to a lack of resources: "All people have rights to pursue happiness to live in law wherever they are... [people with disabilities] shouldn't be denied any social, economical, political desires that they have. If you have laws but can't enforce the ADA or rights, then the legislators let us down. If no money is allocated for those laws, there are no rights" (Jack, male, age 55, physical disability). Others pointed to the fact that it takes a long time to get anything done under the ADA: "They fight it after the fact. Cases are everywhere of discrimination against PWD but there are loopholes. It needs to be stronger and be enforced" (Lara, female, age 48, visual disability). The arrangement of rights under the ADA favors the business community. "Loopholes" like the consideration of what entails "reasonable" or "easily achievable" under the legislation leave room for employers to try to find a way around the law. As Karger and Rose (2010) note, employers win the vast majority of ADA litigation. The human rights principle of nondiscrimination is present in the ADA, the literature and experiences of people with

disabilities suggests that employers can find ways around this and deny people with disabilities equality of opportunity in the name of economic rationality.

National rights legislation will remain ineffective unless the government leads by example. One person shared his views and experiences:

It seems like the U.S. government is one of the biggest entities that violates [the ADA]. They don't follow it due to lack of accessibility and hiring practices. They aren't a good example for private sectors - notifications aren't in Braille or on tape... [when I got a government form] I went down to the [local government] office and they told me to bring it home and have someone help me (Thad, male, age 51, visual disability).

It is not enough to have legislation in national policy discourse. For people with disabilities to have full and equal opportunities the practices must align with policy goals. When people with disabilities experience violation of their rights by the government, it does not give them confidence in other aspects of society, especially the labor market.

One limitation of the ADA as a rights mechanism to address discrimination, is that it requires individuals to proactively claim their rights through a process. Rights are not enabled through broader values of social justice or necessarily embedded with difference principles underpinning human rights, but are granted conditional upon proving that an individual is the "same" as other individuals. What this means is that people with disabilities have to still work hard at obtaining rights. In this research, people with disabilities spoke about having to first

know and understand that a right has been violated (with many noting that they were not always aware of this); and secondly knowing how to stand up for their rights (only a few people were aware of the steps to take to address discrimination through legislative measures). Developing a greater awareness of rights is essential across all levels of society. In order for human rights principles like nondiscrimination, accessibility, and equality of opportunity to be realized in national policy practice, society in general needs better awareness. The Convention stresses the importance of disability rights awareness in Article 8 (Awareness-raising). The National Council on Disability (2008a) identifies awareness raising is an area that the United States needs to address in order to be consistent with international human rights for people with disabilities. One way of doing this, that is specific to employment, is that the government should be an example of recognizing the contributions that people with disability can make by employing people with disabilities in the public sector (Article 27, para. 1(g)).

2. **Perceptions on people with disabilities**

People with disabilities recognize that the limitations of the ADA and the discrimination they face are rooted in low perceptions of what they can do. Their experiences finding work exemplify this point. Many people with disabilities believed that their difficulty finding work came down to discrimination rather than their experiences and qualifications. They spoke about being qualified for positions and competing for jobs with non-disabled people, but due to needing additional supports and accommodations they were always passed over. The gap in employment levels that was highlighted in the beginning of this chapter supports this position. People with disabilities believe that this was because employers did not think that they could be an asset to their company.

Employers are not open-minded enough... they need to look for the best employee. I have analytical and problem-solving skills and I'm on par with others, but because I move slower, I won't get a job. An old employer told me I can't navigate the stairs well enough to work all day long and they wanted my doctor to give assurance that I could work (Jack, male, age 55, physical disability).

Even those who tried extensive volunteer work to build specific skills and experience found that this rarely led to paid work. Overall, people with disabilities believed that the barriers they face in moving from welfare to work came down to perceptions of disability. Luecking (2008) reviewed recent evidence on employer attitudes towards hiring people with disabilities and found that there were a number of examples to support the idea that employers had negative attitudes towards hiring people with disabilities. However, he concluded that negative attitudes were not the reason that more people with disabilities were not employed; rather, it was because employers and work places are not sure how to support people with disabilities. The combination of low perception and fear disability limit the opportunities people with disabilities have.

It was constantly reiterated how employers did not understand what is meant to provide accommodations (i.e. how little they cost and disruption; also see later subsection); how employers erroneously perceived that it was too great a risk to hire someone with a disability; and how regardless of education level, employment history and skills, employers simply do not have a good perception of someone with a disability: "People think that if you have a certain kind of disability, that you fit the stereotype and can't do things" (Dave, male, age 55, deaf). This

has a deep impact on people with disabilities: “We can do [public education] all we want, but it’s really hard to change barriers. And yourself because being told ‘no, no, no... we don’t want you’ gives you a sense of giving up sometimes” (Ari, female, age 41, physical disability). Hernandez et al. (2000) support this idea and concluded that, although employers said they were willing to hire people with disabilities, they did not put that into practice. Although employers say they will hire people with disabilities and report good attitudes, until they are translated into practice, public education that promotes the employment of people with disabilities is not likely to have an impact.

People with disabilities thought that such perceptions towards them resulted in contradictions of what society expected of them. On the one hand they are told that all people with disabilities should be working and not “wasting public resources.” Conversely, when applying for positions they face discrimination and find that the employers often lack the information or knowledge about the benefits of hiring someone with disability: “I want to reiterate that it’s been my experience that people with disabilities want to work and be loyal to a company because they know how hard it is to find a job. People with disabilities want gainful employment with a living wage and not just to work at Wal-Mart” (Ari, female, age 41, physical disability). Overall, people with disabilities just wanted to be treated the same as everyone else, which meant that for those who choose to be in the labor market, work becomes an essential component of their identity:

I think work is even more important for people with disabilities because society as a whole tends to devalue someone with a disability than say that they’re equal and

can do something in a different way. Being able to work and earn your own income and affording things that other people have has a double meaning for anyone with a disability because it lets you feel like you're part of the majority and not minority (Lara, female, age 48, visual disability).

When people with disabilities are not perceived as able to work, they are denied the opportunity to include employment as part of their identities and have their disability respected alongside the rest of the human diversity.

People with disabilities shared that this had nothing to do with their actual level of education or qualifications, people who are highly educated and experienced similar circumstances. One person said: "I look at the face of the employer and I tell them I have a mechanical engineering degree. I feel like I have more opportunities by only saying I have a high school degree. Once you let them know that you're qualified, they lose you" (Jack, male, age 55, physical disability). Others who were similarly educated with college and post-secondary degrees also shared stories about looking for jobs they were overqualified for, and discussed how they still had trouble finding employment:

You interview for positions you wouldn't dream of interviewing for and you ask people for jobs you wouldn't dream of working at ... It's not necessarily because you think the program is going to work, but because there is nothing else for you to do. If you're not doing anything, you won't get any help from the government (Lara, female, age 48, visual disability).

Research on outcomes of VR and employment services suggest the same; people with disabilities who have more education have difficulty finding employment (Berry & Caplan, 2010; Houston, et al., 2010). This questions whether people with disabilities are encouraged to fulfill their full potential, or whether they are pushed into entry-level employment. The low overall wages that people with disabilities report suggests that they are often not included in higher-level jobs. It is unclear whether people with disabilities have the opportunity for full and equal participation and to display their skills and capabilities.

People with disabilities were concerned that the changing nature of the workplace was a barrier. Employers “want you to do everything these days... they don’t hire a typist anymore; there are not individually skilled jobs. Now they hire one person to do everything and you have to be an effective multitasker. [...] You’re easy to replace because there’s a huge pool of people out there” (Ryan, male, age 57, visual disability). Others acknowledged that they saw the same thing, but one was hopeful that “the employment market is changing to wanting people with disabilities [as employees]. It’s a slow change so it won’t affect any of us right now. I think in the future, it’ll be a lot better than it is now and we will have more things offered to us. Until that takes place though, we’ll be stuck” (Pat, male, age 51, visual disability).

One of the reasons that people with disabilities, but they were good employees was: “Once they’re hired, people with disabilities are more likely to be there and more consistent. The perception is that they’ll need more time off and more healthcare” (Lara, female, age 48, visual disability). Literature also supports the benefits of employing people with disabilities. In a longitudinal study conducted on the ADA practices of Sears, Roebuck & Co. – a US company with 300,000 employees, 20,000 of whom are persons with impairments – the average direct cost

of providing accommodations to qualified workers with disabilities was less than \$50. The economic benefits to Sears (e.g. avoiding turnover costs) of employing workers with disabilities far exceeded the costs of accommodations (Blanck & Scharzt, 2002). Other employers found the similar issues and were likely to continue the employment of people with disabilities after the employers saw how they performed on the job. A recent survey of employers (Harris Interactive, 2010) this shows that larger employers have more knowledge of accommodating people with disabilities, although previous research (Scharzt, et al., 2006) shows that employers size is not related to whether an employer found an accommodation to be cost effective. All employers found this after seeing accommodations in practice. Therefore, educating employers on accommodations, and the costs and benefits of accommodations, is the essential so that people with disabilities can remove barriers to participation in the workforce.

Moving in this direction is important in people with disabilities are to have full and equal opportunities for participation in the employment market. Government and employers need better recognition of their differences, but not to perceive those differences as a negative, rather disability is a part of the range of normal human difference.

3. **Accommodations and accessibility**

Accommodations and support in the workplace for people with disabilities are essential components of equality of opportunity and full and equal participation. Accommodations can include structural accessibility, adaptive equipment and software, on the job support and variations of work start/end time and breaks. Many of the accommodations that people with disabilities need for equal participation in employment require only minimal adjustments or costs to the employers. However the people with disabilities in this research felt

that many employers were not well informed about on-the-job accommodations. Their general impressions were that employers did not want to “deal” with additional issues such as accommodations and supports when hiring someone for a position:

They [employers] are looking for a person who is going to cost them the least to employ... whether it's a person with a disability or not. They're looking for the way they can achieve their goal of providing a service with the least amount of hindrance to them. Anyone that needs any kind of special accommodation is really excluded even though their accommodation is a one-time purchase and they can often get a tax credit. They don't want to take the time or effort to give that person a chance (Lara, female, age 48, visual disability).

People with disabilities noted that the experience of getting accommodations varied by employer, but they all thought that the bottom line was about “how much it will cost them.” Others spoke about their experiences of accommodation requests, which often ended in conflict with the employers: “Some people with disabilities are afraid to bring up the topic of accommodations with employers, because they felt that it might cause problems and employers are already uncomfortable with disabled people” (Jack, male, age 55, physical disability). One person with a disability was frustrated by the process and the concern for cost: “We just want to work and don't have time for these games” (Sam, male, age 40, visual disability).

People with disabilities noted that their experiences vary by employer. They realize that finding accommodations was more of a challenge for small employers, but there were also

difficulties with large employers: “It’s worse for small employers because their overhead is much less and has less money to do accommodations... but you get the impersonality of a large businesses and they may have the finances, but they’re not looking at the individual. The small business sees that they can employ you, but they don’t have the money to employ you” (Lara, female, age 48, visual disability). A recent survey of employers shows that the majority of employers do understand the accommodation process. Only 35 per cent believe that hiring a person with a disability is more expensive, the rest do not think it is more expensive, and a very few (2%) think it is less expensive (Harris Interactive, 2010). That survey also supported the perspectives of people with disabilities about employer size; larger employers were more likely to hire people with disabilities because they had additional knowledge about accommodating workers with disabilities and had specific staff and initiatives available for supporting them.

Others also saw the government being part of the problem. As both an employer and as a regulatory body, the government needs to lead by example. One person shared how: “The government has to be a good example of accessibility because if not, the government can’t tell [employment] contractors what to do. There’s so many times when I go to a government building and the ‘handicapped’ door doesn’t work” (Thad, male, age 51, visual disability).

For people who were actively looking for work, they experienced difficulty identifying jobs to apply for because government websites were inaccessible. People with visual disabilities in particular spoke about their negative experiences with seeking accommodations both during the application process and on-the-job: “They want us to apply online and they won’t assist you with filling out applications. Even if I would bring up the ADA, they wouldn’t do it... the rehab counselor and the employer both wanted the other to pay for the [adaptive] equipment” (Ryan,

male, age 57, visual disability). It is important that people with disabilities have equal access to online application forms and online job postings, as this is a fundamental component of full and equal participation in the job search process.

All of the people with disabilities shared their stories about accessibility barriers in seeking employment, which included a range of structural barriers (e.g. inaccessible door entry, steps, elevator buttons, toilets); and informational barriers (e.g. inaccessible job applications, advertisement materials, websites). If employment policy is to be effective, then it must be consistently put into practice so that people with disabilities have equality of opportunity. Principles like nondiscrimination and accessibility need to be implemented across the board. Although the government does have a few tax breaks that employers can take advantage of to provide accommodations, the US General Accounting Office (2002) argued that they are underutilized and do not have an impact on the employment of people with disability. Livermore and Goodman (2009) argue that programs do exist to help employers improve the opportunities available to people with disabilities, but not many employers know about them; better education for employers may help to ease their perceptions of the cost of providing accommodations .

Barnes and Mercer (2005) argue that the individual nature of the accommodation process is limiting to people with disabilities as a whole. While offering accommodations does take into account the unique circumstances of people with disabilities, a better social justice/human rights approach would question the barriers that are in place that require accommodations in the first place. Those barriers should be addressed systematically to create a more inclusive environment, rather than relying on an individual responsibility to get accommodations in order to participate in the labor market. A broader strategy would help to promote accessibility and

nondiscrimination, which increases greater equality of opportunity to all people with disabilities who may not know how to engage with employers on individual accommodations.

4. **Responsibilities of citizens and government**

Employment is important to people with disabilities because work can be a large part of someone's identity. In addition, there are economic reasons for wanting to work, as well as broader benefits associated with being part of a community and having opportunities to form relationships. Having a job contributes to improving the quality of life, gives people a sense of belonging and self-esteem (Human Resources and Skills Development Canada, 2002). One person with a disability said: "It's important that other people see me work. For my kids, for my neighbors... it's respectability, freedom of choices. Work is like a signature you put on something and you want it to represent you, I take pride in my work" (Jack, male, age 55, physical disability). Employment of people with disabilities is also important to the government. When Ticket to Work was adopted, the reported aims were to get more people with disabilities off of benefits and into the workplace (Hernandez et al., 2007; Stapleton, et al., 2008).

The shift to welfare to work policy for people with disabilities has raised questions about the responsibilities of citizens and of government. As policymakers mediate an economically volatile climate while seeking to simultaneously address structural unemployment and rising costs of benefits, new policy discourse on rights and responsibilities has emerged. The people in this research spoke at length about whether employment of people with disabilities is a right or a responsibility. There was general agreement by people with disabilities that all individuals have a responsibility to be productive. They linked the opportunity to be productive directly with their rights. For people receiving disability benefits and services, it was thought to be "reasonable" for

the government and/or employment service agencies to have expectations of them. However, some people with disabilities spoke emphatically about this being a “two way street” – government must provide support and assistance (e.g. transportation and income support during the job hunting process) to help people into work. Evidence from the literature (Bordoff, Furman, & Shevlin, 2007) supports the dual focus on welfare with work. In response to the move from benefits to work, many people shared their fears about trying to find a job and having their benefits cuts off (to be discussed in the following section). They also spoke about how difficult it is to find work in general, but even more so in the current climate where employers are not hiring: “The unemployment rate for people with disabilities is unforgivably high” (Ryan , male, age 57, visual disability).

The employment services that the government offers was an area that people with disabilities discussed that highlights the link between rights and responsibilities. People with disabilities have the right to participate in these programs, but it comes with responsibilities. In turn, the government has the responsibility to ensure that these programs are beneficial. Many of these programs include Ticket to Work ENs. People with disabilities had mixed opinions about the services they received. People with disabilities who had participated in training programs received a mix of general skills training and training specific to an industry. Many of the industries that were mentioned (hospitality, data entry, vending stands) are very stereotypical jobs for people with disabilities, and people with disabilities were concerned “that the choices are very limited” (Thad, male, age 51, visual disability). “They shouldn’t try to pigeon hole people with the same disability and need to see people on an individual basis” (Pat, male, age 51, visual disability). Training should be more individual and encouraged more “than just

meaningless work” (Sam, male, age 40, visual disability). One person with a disability who had a Masters degree was not satisfied with the program because they kept trying to push her into a low-level job. The TTW policy discourse emphasizes that all people with disabilities develop an Individualized Work Plan that is supposed to give them more autonomy and choice over their future employment direction. However, the evidence from people with disabilities does not support that these plans are the focus of their experiences in employment programs.

Some people with disabilities were unsatisfied with the staff that operated these programs: “The people that are running these programs have no idea what people with disabilities can or want to do. They’re just there for a job” (Lara, female, age 48, visual disability). This was true for a number of different employment services:

I’ve gone to a lot of one-stops and they need a lot of education. Most are not knowledgeable about disability issues. I called up, I made an appointment... I took my resume in and the first thing I was asked is “why are you here?” I couldn’t use any of the computers there because none could be adapted so I couldn’t look up any employment information (Ben, male, age 54, physical disability).

This revelation about One-Stops is surprising. While it is likely that this particular office did not have a Disability Program Navigator, a position that has been shown to have a positive impact on One-Stop environment, One-Stops are mandated to have services specific to people with disabilities (Boeltzig, et al., 2010). This information points out the importance of having

disabilities specialists in employment offices to ensure that services are accessible to people with disabilities.

One person with a disability emphasized that Ticket to Work is a training program, not an employment program. Within this program, “there’s an assumption that you’ve never worked... I got a ticket for training but not employment, which is what I wanted and thought they meant. I am eager to go and I had high hopes, but they’re immediately deflated” (Ira, male, age 61, learning disability). Many people with disabilities were frustrated with the assistance they got from service providers when it came to finding open opportunities. Other people with disabilities said they found more opportunities by themselves, which was frustrating because “agencies are getting money for placing people, and I’ve never gotten a single call about jobs from them” (Thad, male, age 51, visual disability). The difficulty that people with disabilities had with different ENs led many to question who if the programs were sincere: “I get the sense that it’s just filling a niche in saying “we have these programs”... I don’t see that most are effective at all. Most people are the same after the training as they were before the training” (Lara, female, age 48, visual disability). The goal of the Act was only to increase the number of people with disabilities leaving the benefit rolls for employment from 0.5 per cent to 1 per cent. This meager goal does not support the program as a well-funded and important initiative to the government. Evaluations have shown it to have little impact and additional resources are necessary before it can be argued that TTW has a prominent place within disability policy.

One person with a disability found an Employment Network provider that offered a work from home program under Ticket to Work. He went through all of the online applications, but when he went to the office for training “they did not know anything about it” (Jack, male, age

55, physical disability). The low number of ENs who had accepted a ticket nationally, and the difficulty of finding a provider to work with added to this skepticism that people with disabilities had about the program. One person said he did not “think it works for anyone” (Ryan , male, age 57, visual disability). Evaluations have shown that it works for only a very few (Stapleton, et al., 2008) and it has done little to promote the full and equal participation of people with disabilities in the labor market.

5. **Dissemination of policy information**

The need for greater information and awareness about employment policies, programs and services was a critical issue for people with disabilities in this research. They discussed wanting and needing other ways of receiving policy information, and spoke about how the government could do this, including: a packet of fact sheets to understand the different rules and regulations across all the employment programs available, a more streamlined process in applying for jobs, and greater access to knowing what jobs were available to them. Many spoke of “jumping through so many hoops” when it came to finding employment, and not understanding the information that was given to them.

Specific to the Ticket to Work program, people said they found about the program through a phone call or by receiving a ticket in the mail. A few mentioned that they heard about it from disability organizations, government offices or medical professionals. However, many of them had never heard of the program before and discussed how the information given was not helpful. They felt as though the government only distributed a minimal overview of the program, then left it up to individuals to try to learn more about it and try to find a provider. People with disabilities received tickets, but often did not know what they were for. One person with a

disability said: “I don’t know who’s responsible for this but they did a terrible job at educating people about this. I still don’t understand it and there is a lack of instruction and lack of explanation about the program” (Thad, male, age 51, visual disability). The human rights principle of accessibility is not promoted within a situation where people do not understand the programs that are available to them. In order for TTW to be more accessible and effective, people with disabilities and disability stakeholders need better information on the program, and need to know where to go to get their questions answered.

When they tried to get clarification, they were frustrated by the responses: “I asked about it at the Social Security office. I got the run around and they didn’t know what I was talking about” (Sam, male, age 40, visual disability). They ended up putting aside the tickets and forgetting about it. Those who did try to use their ticket with a provider shared how they had a number of problems: “I tried to use it, but it’s extremely difficult to go through. It was like going through a maze. They send you this huge list of organizations and I tried for months and months, but I couldn’t get anywhere.” (Ben, male, age 54, physical disability). Others had trouble finding a place to redeem their ticket. They got the list of providers and found that many were not in the city. These experiences sometimes keep people from trying again: “I’ve heard it’s gotten better, but I don’t want to repeat what didn’t work before” (Ryan, male, age 57, visual disability). The “huge list” Ben referred to is from Maximus, the agency contracted to operate many TTW administrative functions. The list contains all of the ENs that are registered to provide services in a given area. It is a person with a disability’s individual responsibility to contact them and find a provider willing to accept their ticket. While Maximus can provide some guidance, because most of the ENs are private agencies, there is not a central the place to get additional information,

aside from contacting each. This can be an onerous process and few (1.4%) people with disabilities have had success assigning their ticket to an EN (Stapleton, et al., 2008).

6. **The intersection of employment, income support and other benefits**

A specific area where the lack of information was a barrier to people with disabilities was information on how an employment would impact their benefits. Disability employment policies transcend across a number of interrelated policy domains and one of the key policy challenges is bringing these areas together. When welfare to work policies first emerged in US policy discourse, an immediate concern facing policymakers was how to ensure people with disabilities can successfully move from welfare to work, while mediating broader policy issues such as the availability and suitability of disability support services, housing, transportation and healthcare. One of the main fears of people with disabilities in moving from income support to employment is loss of benefits.

Although the people with disabilities in this research were actively trying to be economically independent and productive, they all mentioned a fear of losing benefits. While this but did not prevent them from looking for employment, it did translate into being pushed into part time instead of full time employment. One person received advice from a local disability organization that he should work part-time: “They said if I made too much they’d cut off my benefits and that’s discrimination. I don’t understand” (Ira, male, age 61, learning disability). This was also the experience of another person, who feels that current employment policies only encourage people with disabilities to have a part-time job, which means they get much less money but keep benefits (Sam, male, age 40, visual disability).

Health benefits were a particular concern, but did not prevent people from trying to find employment. One person with a disability was concerned about losing medical benefits if he found employment: “Fortunately, it was not affected me yet, but if I get sustainable employment for the long-term, I’m sure it would. It would affect my medications so it’s a concern” (Ben, male, age 54, physical disability). People with disabilities were concerned about paying for their health insurance. “Healthcare is very costly when the state isn’t paying” (Vicki, female, age 49, physical disability). “The Medicare premium is too high and I still have to pay copay on my medication” (Ryan, male, age 57, visual disability). There are some programs that allow people with disabilities to work and keep their healthcare benefits: “There’s a program in Illinois now for health benefits and you can have up to \$3000 and still get Medicaid because you pay a premium. I’m on that and keep my social security, and earn up to the limit that social security allows and then pay a premium” (Kelly, female, age 57, mental health). That program is known as Health Benefits for Workers with Disabilities and it is the Medicaid buy-in program for the state of Illinois. The people with disabilities who participated in focus groups, whether they were aware of these programs or not, seemed to favor finding employment over keeping their health care benefits. Thornton et al. (2007) found similar results as only 11 per cent of disability beneficiaries said that their concern for healthcare prevented them from looking for employment. People with disabilities want to work, and fears about their health care do not keep them from looking, but they want to be ensured that they will have healthcare benefits, either through their employment or through expanded Medicare or Medicaid services, before they take on a job. They realize that their health is not what keeps them from employment, but access to healthcare does erect barriers for them.

Others discussed their similar experiences of specific programs under Social Security, noting their frustrations of having their benefits reduced when they started working. This was cited as being a disincentive to employment, with one person believing that: “It’s the government’s way of keeping poor people poor. If you work with SSI, they take money away so they penalize you if you get a job” (Lara, female, age 48, visual disability).

People spoke of the strategies that they had to use to avoid having their benefits impacted: “I had a job in sales and it affected my social security so I asked to not get a bonus” (Kelly, female, age 57, mental health). Others did not understand the policies of how employment would affect their benefits, and shared their experiences of having their entire check withheld:

If you’re not well-educated about Social Security and unless you know how it works and affects you, then you think you can’t get a job. It depends on what program you’re on and no one tells you what the rules are. When you get a job, you’re told it won’t affect your benefits at the end of the job, I was told I owe money. There was one time my entire check was taken out and I didn’t even have money for rent or for food or anything. Some of these government offices don’t education people well enough so they can be prepared if something like that should happen (Christa, female, age 41, physical disability).

Another person went to a benefit advisor before taking on work and made sure to get what he was told in writing. He found this to be a good system, but was frustrated because he

was not told that he could deduct part of his transportation costs, which he ended up paying himself (Ben, male, age 54, physical disability). People with disabilities in general expressed great frustration by the limits on the amount of money they could make without losing their benefits, referring to these as “oppressive policies” (Pat, male, age 51, visual disability). One person said that his employment needs to entail “sufficient pay so that one would not be concerned about losing economic benefits like public aid or Social Security” (Thad, male, age 51, visual disability). These discussions emphasize that both employment and the benefits are important. People with disabilities would prefer to be in employment, but that employment situation needs to offer them security, both in terms of returning to benefits if necessary, and maintaining access to healthcare. People with disabilities want to be able to have a job that provides a decent standard of living, but do not want to risk losing their benefits if they attempt employment and it does not work out. Access to information is, again, essential in order for people with disabilities to understand the policies that are available and encourage labor market participation. Removing these policy barriers is necessary to promote equality of opportunity and protect the human rights contained in CRPD Article 28 on receiving social protection.

A person with a disability who had experience in a local Center for Independent Living said that it was important for people with disabilities to know as much as the professionals that they are going to go see: “We ask people with disabilities to be as educated or more educated than so-called professionals because we know what we want and that’s all part of the consumer control. We have to know what to ask because there are so many hidden benefits so if you don’t ask, they are not going to know. As a person with a disability, it pays to do your homework” (Ari, female, age 41, physical disability). The lack of specific policy knowledge by people with

disabilities is one of the driving forces underpinning their fears of moving from welfare to work. Ball et al. (2006) discuss the trouble that people with disabilities have getting out of the cycle of poverty that is associated with welfare benefits. Social Security rules limit the amount of income and assets that one can accumulate, making it difficult for people with disabilities to achieve self-sufficiency. Although there are some programs and benefits advisors who can work with beneficiaries on plans that allow them to accumulate assets, they are underutilized, and not well publicized. TTW would be stronger if all people who use their tickets received this planning.

This has not be adequately addressed by policymakers, who may share an understanding for why people are resistant to take up employment, but do not have the needed support systems in place to address it. People with disabilities, even when employed, are more likely to be working part-time or in precarious positions (RRTC-DSD, 2010). Add to this an unstable labor market and broader economic climate and the likelihood of people falling through the policy gaps increases. Further policy attention to address the practices of moving into work is warranted to ameliorate some of the fears and complexities so people with disabilities are able to participate on an equal basis with others. Limits on benefits and asset accumulation are barriers to full and equal participation in society for people with disabilities.

C. **Conclusion**

This chapter has detailed the policy context for people with disabilities related to welfare to work initiatives in the United States. While the United States has a strong recent history of welfare to work policies that tighten welfare benefits by limiting the time people can claim them, and imposing work requirements on beneficiaries, the majority of people with disabilities have not been impacted by mainstream reforms. For people who receive SSDI/SSI, labor market

participation is still voluntary (a key difference from the other countries in this research), although employment offers the opportunity for a much higher standard of living.

The United States has antidiscrimination legislation (the Americans with Disabilities Act) that protects the rights of people with disabilities within society, specifically within the labor market. The ADA, explicitly recognizes that people with disabilities are workers. However, the definition of disability that the Social Security Administration uses to determine eligibility for benefits. People with disabilities have to show the inability to work in order to receive benefits, but then they are encouraged to find employment. This contradiction confuses many people with disabilities and leads to concern about their future benefits if they attempt to work. This is exacerbated by healthcare in the United States, which is not universal. Many people with disabilities obtain their healthcare through Medicare or Medicaid, which they are eligible for because they are on SSDI or SSI. The United States has introduced Ticket to Work to encourage beneficiaries to work on the labor market. Ticket to Work tries to ease concerns about the potential loss of benefits for beneficiaries who try to move from welfare to work. Although this program emphasizes employment, and employment is the preferred response of social policy in the United States, not all people with disabilities will be able to work. Research in the United States has argued that a combination of welfare and work is necessary, because employment is not the best solution for everyone (Bordoff, et al., 2007). Still, as this research shows, most people with disabilities want to work. Six themes developed from people with disabilities' discussion of welfare to work:

- *National legislation and discrimination*, which suggests that Americans with Disabilities Act needs to be better enforced in order to be more effective, because, as it stands, employers are not totally accountable due to clauses that protect business interests;
- *Perceptions on people with disabilities*, which confirm that society, and especially employers, have low expectations of people with disabilities that impact their opportunities in the labor market;
- *Accommodations and accessibility*, which reveal that people with disabilities have trouble accessing the accommodations they need to participate on an equal basis;
- *Responsibilities of citizens and government*, which emphasize that people with this abilities felt they had the responsibility and the right to participate in the labor market, but also that the government had the responsibility to provide supports and services that allow them to do so;
- *Dissemination of policy information*, which highlights that people with disabilities lack information on policies that exist regarding their participation in the labor market; and
- *The intersection of employment, income support and other benefits*, which emphasizes that one of the primary areas that people with disabilities lack information is regarding how employment would affect their benefits, including healthcare.

Research and evaluations have not shown TTW to be effective in moving people from welfare benefits into the labor market (Thornton, et al., 2006; Thornton, et al., 2007; Thornton & O'Leary, 2007; Thornton, et al., 2007; Thornton, et al., 2007). Ticket to Work only has a stated goal of moving one per cent of SSA beneficiaries into work, which, even if met, leaves many people with disabilities out of the discussion. Although the United States has recognized the need

to decrease the number of people receiving disability benefits and increase their participation in the labor market, a concerted effort in this direction have not been applied to people with disabilities in the way that it was applied to single mothers and unemployed welfare beneficiaries under PRWORA.

The OECD (2009a) argues that it is necessary for industrial countries like the United States to use both welfare to work and structural reforms. Ticket to Work is based on a strong foundation, especially that it supports a network of providers that provides more choice of employment service providers to people with disabilities. However, providers face a number of challenges to working with a ticket, particularly with regards to how they are paid for their services. The result is that the individuals that ENs choose to work with are those who are close to the labor market, need few employment services, and will eventually work full-time or close to it. The arrangement of TTW means that welfare to work is only a viable option for those people with disabilities who are easiest to work with.

On the structural level, the United States would benefit from a system of universal healthcare, so that beneficiaries do not have to remain eligible for benefits in order to receive healthcare. Reforms such as extended Medicare eligibility and buy-in Medicaid programs for people with disabilities in employment are a step in the right direction, but most people with disabilities are not aware of or uneducated about those programs. Furthermore, although reforms allow people with disabilities to keep their benefits for a period of time and maintain expedited eligibility for benefits if they were to start working, they are also not well publicized. People with disabilities who would better understand the programs that are available to them if they were not so disjointed; a structural reform that strengthens the ties between these initiatives

would help to keep people better informed and more willing to take advantage of what is available to them.

In practice, American policy creates a choice between work and welfare for people with disabilities. As TTW illustrates, the US does little to promote their employment; rather, they are accepted as worthy beneficiaries of income and other supports, which are insufficient to provide an adequate standard of living. The Convention on the Rights of Persons with Disabilities asserts that national governments have the responsibility to provide for and protect the rights of people with disabilities to employment and an adequate standard of living, and to do so in a manner that is consistent with the principles that underpin the Convention. Ticket to Work fails to promote those rights. The Convention principles, notably individual autonomy, non-discrimination, full and effective participation in society, equality of opportunity, and accessibility are not fully embodied in TTW. If the United States is truly committed to the employment of people with disabilities, it needs legislation that fully aligns with the Convention, actively supports training and employment services for *all* people with disabilities, provides real incentives for entering the labor market (including better programs for asset accumulation), and provides a decent standard of living to those who cannot work. The United States needs to show that commitment by providing stronger links between programs that are available to people with disabilities, and providing better outreach and information that would encourage them to work without fear of the impact that work would have on their benefits.

V. Australia¹²

This chapter explores the experiences of people with disabilities in Australia relating to their participation in employment service programs, particularly with regards to their human rights and reforms to disability benefits and employment services in the country. Participation in the labor market is been a central component of social policy in Australia, primarily through the concept of the mutual obligation. However, people with disabilities have not been held to the same standard as the rest of the population. When compared to other nations, Australia ranks very high on its overall system of social security, including disability benefits, but does not perform as favorably in its role in assisting people with disabilities into the labor market (Dixon & Hyde, 2000; Parker & Cass, 2005). Reforms influenced by neoliberalism have impacted eligibility for Disability Support Pension (DSP) and employment services for people with disabilities since 2005 have made labor market participation essential for people with disabilities. Many people with disabilities are now placed onto allowances that have mutual obligation rather than DSP or participate in a new set of employment services. The experiences of people with disabilities and how they are impacted by these reforms is an area that needs more research, especially relating to their human rights.

Social policy in Australia has been historically more orientated around conceptions of social justice, rather than human or civil rights, but the rights of people with disabilities have gained explicit recognition in more recent years. The Disability Discrimination Act was adopted

¹² Condensed versions of parts of this chapter have been submitted for publication (journals withheld) under: Parker Harris, S., Owen, R., & Fisher, K.R. “Human Rights and Neoliberalism in Australian Welfare to Work Policy: Experiences and Perceptions of People with Disabilities and Disability Stakeholders”; and “Structural and Cultural Justice in Disability Policy: a social justice approach to facilitators and barriers in employment participation for people with disabilities”.

in 1992 and protects people with disabilities from discrimination in society, including within the labor market. Australia has also signed and ratified the United Nations Convention on the Rights of Persons with Disabilities (CRPD), so it is obligated under international law to ensure that the contents of the Convention are embodied within national policies. Despite these advances, the Council of Australian Governments (2010) notes a high number of disability discrimination claims across Australia, most notably reported by the Australian Human Rights Commission and the New South Wales Administrative Decisions Tribunal.

This chapter on social policy for people with disabilities in Australia explores the intersection of neoliberal welfare reforms in a context of national and international human rights. It combines critical policy analysis with empirical data collected from a series of focus groups conducted in July and August of 2010 in Sydney with people with disabilities who were impacted by those reforms. The data is analyzed within a framework of human rights, which is dictated by the CRPD (see Chapter 3). The body of this chapter is organized into two main sections. The first section details the national policy context and is primarily descriptive. It reviews the situation of people with disabilities within Australian society, and Sydney specifically; discusses historical policy trends relating to disability in Australia; and describes the current policy context, including an overview of Welfare to Work and the benefits and employment services available to people with disabilities. The first section answers the first research question for the Australian case:

- What policies/programs have been implemented regarding welfare to work for people with disabilities?

The next section is analytical and combines the perspectives of people with disabilities with critical policy analysis. The results are organized into seven primary themes: (i) international human rights and national antidiscrimination; (ii) the economy and employers; (iii) skills, capabilities and quotas; (iv) responsibilities of citizens and government; (v) employment services and finding employment; (vi) getting involved with a service provider; and (vii) information and communication. The analysis that accompanies these results addresses the core questions framing this research, namely:

- Under which conditions is the implementation of welfare to work policies for people with disabilities in Australia consistent with the human rights approach as outlined in the CRPD?
- How do people with disabilities experience welfare to work programs/policies in Australia, and is that experience consistent with national implementation and rhetoric?

In the conclusion of the chapter, it is argued that in order for people with disabilities to have equal opportunities in the labor market and experience the human rights that the CRPD envisions, the government must recognize its responsibility to create an environment in which welfare to work reforms can be successful: increasing the labor market participation of people with disabilities, reducing welfare expenditures and use of government programs to reduce expenditures and improving the human rights experiences of people with disabilities. The influence of neoliberalism on welfare reform in Australia is evident and constrains the opportunities people with disabilities have to participate in the labor market. It is argued that additional consideration of the human rights approach, specifically the principles underpinning

the United Nations Convention on the Rights of Persons with Disabilities, within national policy is necessary to increase the participation of people with disabilities in the labor market.

A. **National Policy Context**

1. **Rights and antidiscrimination**

Australia is the only Western democracy that does not have a Bill of Rights to protect its citizens; policy is arranged around the concept of social justice, rather than rights.¹³ Carney (2006b) notes that not having a Bill of Rights is more important for civil rights than for social rights, because social rights are typically not included in a Bill of Rights anyway. However, rights are expressed in other ways. In Australia this is partially done through the Australian Human Rights Commission (formerly the Human Rights and Equal Opportunities Commission [HREOC]), which reports, mediates and provides advice on human rights issues. Australia also has anti-discrimination laws and court decisions have generally been favorable to providing the right to social protection for most citizens. This is important because Chapter 2 makes it clear that national governments have a central in promoting and protecting human rights for people with disabilities. The CRPD is important because it commits governments to change not only through shifts in attitude towards disability, but also through implementation of comprehensive and effective legislation (Lord & Stein, 2008; Melish & Perlin, 2007), and significant changes in the area of disability rights takes place far more rapidly when there is effective domestic legislation and policy to promote these rights (Quinn & Degener, 2002). Legislation alone is not enough to ensure full and equal rights for people with disabilities

¹³ The issue of social justice versus human rights is a substantial debate in Australia, and adequately reviewing the literature on that debate is outside the scope of this dissertation. Some states have legislation on rights, but there is not federal rights-based legislation.

(Sabatello, 2005); additional structural and attitudinal barriers remain (Parker Harris, Owen, & Fisher, in submission).

Two key policy domains, income support and employment, are critical for facilitating equal participation of people with disabilities, and have been the core policy focus of welfare reforms in Australia. Article 5 (equality and non-discrimination), Article 27 (work and employment), and Article 28 (adequate standard of living and social protection) of the CRPD specifically outline the employment rights that people with disabilities have at the national level. Prior to the adoption of the Convention on the Rights of Persons with Disabilities, Carney (2006b) compared Australian social security law with international treaties and rights that focus on social protection and noted that Australia generally fares favorably. Numerous pieces of international legislation have an impact on Australia. For instance, Article 22 of the Universal Declaration of Human Rights acknowledges that everybody has a right to Social Security, while Article 25 states that everybody has the right to adequate standard of living. Other treaties reinforced this idea. The right to Social Security is mentioned in the International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; and the International Labor Office Convention No. 102 Social Security (Minimum Standards). Australia is bound by these international treaties. The High Court, through the case of *Minister of State for Immigration and Ethnic Affairs v Teoh*, ruled that if Australia has ratified an international convention but not incorporated it into national policy, there is still a expectation that the administration will follow the convention's principles (Carney, 2006b). This is an important finding because it adds validity to the approach that this dissertation employs; because

Australia ratified the CRPD, it is fair to compare national policy to the principles that underpin the CRPD.

While social rights like social security are protected by international treaties, some civil rights, including protection against discrimination on the basis of disability in society, notably within the labor market, are embedded in national legislation. Namely, the 1992 Disability Discrimination Act (DDA) protects against discrimination on the basis of disability in Australian society, including within the labor market. The DDA has been useful for individual outcomes, but has not led to wider progress. For example, employment rates of people with disabilities have not improved. A Productivity Commission report (2004 in Lunt, 2005) concluded that the DDA has been effective for protecting some people with disabilities from discrimination in employment and Macali (2006) points out that that not only has discrimination not been reduced after 10 years of the DDA, but more employment opportunities have not been created for people with disabilities either. HREOC began a public inquiry (2005g, 2005h) into the low status of people with disabilities in employment, which Lunt (2005) notes is a sign of limited progress in the field of disability policy.

The Council of Australian Governments (2010) released a National Disability Strategy in 2010 that is rooted in the human rights imperative and understands that people with disabilities have rights and are not objects of charity. It is based on the social model of disability. It takes the following approaches to disability policy at the national and local levels: involving people with disabilities, engaging with the community, universal design, considering the life course, focusing on individual people, independent living and the interconnectivity of governments. One of the key outcomes that this strategy envisions is that legislation will promote and protect those rights.

The DDA is the key piece of legislation in the area, and ratification of the Convention also signifies Australia's commitment rights. With regard to the DDA, the Strategy argues that there needs to be more effort to promote awareness and acceptance of rights for people with disabilities (Council of Australian Governments, 2010).

The National Disability Strategy represents a coordinated effort across government to include people with disabilities as valued members of society and emphasizes the importance of their access to services (AIHW, 2011). Along with Australia's ratification of the CRPD and a new National Disability Agreement, it is clear that Australia has a strong policy foundation for human rights for people with disabilities. In fact, *Australia's Welfare 2009* reproduces the principles that underpin the CRPD as a highlight of that report and notes that the principles align with Australia's conception of social inclusion (AIHW, 2009). There is explicit recognition within Australian government of the underlying value of these principles, but the statements are aspirational and guide policy development. However, it is unclear whether they are embodied in national policy as it stands, especially when one considers the marginalization that people with disabilities face, as summarized in the next section. This chapter reviews recent reforms to the Australian welfare and employment policies for people with disabilities using those principles as a framework to assess how well the reforms align with the CRPD.

2. **People with disabilities and the labor market: a national snapshot**

In 2009, four million people, or 18.5 per cent of the population in Australia, reported a disability. Disability rates were similar for men and women, and were positively correlated with age. Disability is categorized as a physical condition (15.4% of the population) or a mental and behavioral disorder (3.1% of the population, which includes 0.9% who have an

intellectual or developmental disorder) (Australia Bureau of Statistics [ABS], 2011). Despite recognition of their rights, people with disabilities in Australia continued to experience social exclusion in most life domains (a full review of social exclusion for people with disabilities is beyond the scope of this chapter, though many of the experiences are described in National People with Disabilities and Carer Council, 2009). Participation in the labor market for working age people with disabilities in Australia has remained consistently low over the past several decades, between 51 and 53 per cent (Human Rights and Equal Opportunity Commission [HREOC], 2005a). Data from the 2009 Survey of Disability, Ageing and Carers (ABS, 2011) show that 54.3 per cent of people with disabilities participate on the labor market, 7.8 per cent of whom are unemployed, compared with rates of 82.8 per cent and 5.1 per cent for people without disabilities. Kearns (2008) notes that it is ironic that a country with above average employment rates in general, has below average employment for people with disabilities compared to other countries. Even when people with disabilities are employed, they are more likely to work part-time, have lower relative income levels and live closer to the poverty line (OECD, 2009a). Data from 2009 show that the median gross personal income per week was \$767 for people without disabilities and only \$379 for people with disabilities (Australia Bureau of Statistics, 2011). Not only does the presence of disability reduce the income that one can earn, but it reduces the ability to accumulate assets and build wealth (AIHW, 2009).

Some of the barriers to labor market participation that people with disabilities encounter include: inadequate information and advice about moving into employment (HREOC, 2005b); additional costs for transportation and other supports (Clayton & Honeycutt, 2005; Parker & Cass, 2005); lack of flexibility in the working environment (Butterworth, 2004; Roth, 2007);

limited employment opportunities including low-paying jobs and fewer possibilities for promotion (Bill, Cowling, Mitchell, & Quirk, 2004; Mavromaras, Oguzoglu, Black, & Wilkins, 2007); and stigma, poverty and discrimination (Goggin & Newell, 2005; Saunders, 2007). For many people with disabilities there are significant disincentives to moving from welfare to work, including loss of benefits and loss of access to a range of entitlements which are available for people in receipt of disability benefits (Whitehead, 2010). These barriers stem from a range of interrelated dimensions that influence the capacity for participation for people with disabilities.

From the employer perspective, some of the reasons that employers are hesitant to hire more people with disabilities are that they have inadequate information regarding hiring them; they may face additional costs; and they have concerns about additional risks they may face (HREOC, 2005c). Waterhouse et al. (2010) conducted focus groups with employers from small and midsize companies, and found that if there was more financial support from the government, employers could take a broader role. The four key messages that came from the focus groups are that employers are willing to hire people with disabilities but are not sure that they have the knowledge and capability to do so; employers are concerned about disclosure of a disability, though this concern is easier when there is more trust between employers and employees; employers are sometimes frustrated by job brokers and mediators and do not feel that they can access the relevant information; and employers are not concerned with formal training in disability employment services as much as they are concerned with their capacity to provide support to employees with disabilities.

With these barriers limiting the participation of people with disabilities in the labor market, the Australian government took action to address related social problems, and, like many

other OECD countries, adopted a series of welfare reforms. Among the social problems that welfare reform attempted to address were the growth and high levels of involvement in benefit programs of people with disabilities and the perceived culture of dependency resulting from welfare. For example, at the end of 2001, 20 per cent of the working age population in Australia received income support. This was following a decade of economic growth (Pawlick & Stroick, 2004). Indeed, Australia enjoyed strong economic growth up until 2005, however, over one and a half million people from disadvantaged groups in society were unemployed and half of those were people with severe disabilities (ACOSS, 2005b). Additionally, the aging population of Australia placed strain on the welfare system as the beneficiary rolls expanded. With welfare reform and workfare policies, the government tried to move more people into the workforce in order to support a growing group of citizens who are retiring and receiving benefits (Carney, 2007b).

3. **The local setting: Sydney**

Australia has a federal system of government that distinguishes between federal and state levels of policy that can be difficult for outsiders to understand (Lunt, 2005). The federal (Commonwealth) and state levels of the government share responsibility for policy provisions for people with disabilities. The states provide the majority of social services, and while the Commonwealth tries to implement its own policy directions, the Constitution limits its ability to do so. Simply put, the Commonwealth has the power to collect taxes and states have spending responsibilities. While the Commonwealth is limited in its ability to influence policy, each state applies the principles of New Public Management and its social service models. These principles give attention to the positions of the market and individual consumers for service

delivery (McDonald & Chenoweth, 2006). The Australian federal system works through a series of Commonwealth and State and Territory Agreements. The relationship is governed by National Disability Agreements (NDA) when it comes to provision of disability services and programs. The Federal Government guides policy direction and intent, as well as providing funding to the states to operate programs. However, social security and unemployment services are still controlled by the Federal Government (Chenoweth, 2008). The role of local governments in providing employment services has not been as significant in Australia as it has been in other countries (Cook, 2008).

While the policies that are described and analyzed in this chapter apply to Australia as a whole, for research that uses qualitative research, such as the perspectives of people with disabilities that are presented in this dissertation, it is important to consider the local context. The focus groups in Australia were conducted in Sydney, a large metropolitan area in the state of New South Wales with a variety of disability services available, making the policy environment vastly different from other regions in Australia, notably more remote and rural areas where there are much fewer services available. For instance, AIHW (2011) shows that there were 640 (29% of the national total) disability support service agencies in New South Wales. Other states ranged from 556 (25%) agencies in Victoria to 58 (2.6%) in the Northern Territories. In New South Wales, of the 35,632 disability employment service users, only 425 receive government services; the rest receive services from non-government agencies. The majority of these (77.3%) receive open employment services.

According to the 2006 census (Australia Bureau of Statistics, 2008) the median age in Sydney was 35, whereas the median age of all Australians was 37, so Sydney has a slightly

younger population. Sydney is a more multicultural community than the rest of Australia; only 60.4 per cent of residents were born in Australia, although 82.6 per cent were Australian citizens (compared to 67.8% and 86.1% nationally). Income in Sydney was slightly higher than Australia nationally. The median individual income was \$518 per week, and the median household income was \$1,154 per week (\$466 per week and \$1,027 per week nationally). The median rent in Sydney was \$250 per week, compared to \$190 per week in Australia as a whole, which highlights that higher incomes are required to maintain a standard of living in capital cities compared to other areas of the country. For instance, incomes in Sydney had to be 37% higher than the rest of the New South Wales (which was equivalent to the national average) to maintain an equal standard of living (Australia Bureau of Statistics, 2009). Thus, employment is especially critical in Sydney. These differences impact the characteristics of people with disabilities who participated in focus groups, as they face added pressures for participation in the labor market.

One area that local and state governments can have a big influence on the employment of people with disabilities is by including them within their workforce. However, in 2002, only 1.7 per cent of the public sector work force in New South Wales had a disability that required an adjustment (Human Rights and Equal Opportunity Commission, 2005a). The disability rate in New South Wales is 18.6 per cent, which is 0.1 percentage points above the national rate (Australia Bureau of Statistics, 2011). Sydney is an area that has been identified as having a higher concentration of people with disabilities than the national average (AIHW, 2009). The labor market participation rate of people in big name was 63.1 per cent and the unemployment rate was 5.3 per cent, which compares to rates of 60.7 per cent and 5.2 per cent nationally, according to the 2006 Census (Australia Bureau of Statistics, 2008).

4. **The political context and policy trajectories**

In response to the low participation of people with disabilities in the labor market and growing numbers of people with disabilities on government benefit programs, Australia, like many other OECD nations embarked on a series of welfare reforms that was heavily influenced by neoliberalism. Although Australia borrowed welfare reform elements from the United States and the United Kingdom, it did not follow similar early neoliberal restructuring (Pawlick & Stroick, 2004). In Australia welfare reform has been more gradual than the sudden changes in the United States through the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Following World War II, Australia has moved from a welfare system, with elements of universalism that was based on their right to income support to a targeted residual system that is based on punitive and other ability requirements for clients of the system (Alston, 2010). This has been a slow process and the concept of individualism has come to replace conceptions of collective responsibility.

Participation in the labor market has always been a significant feature of Australian social policy, with many social policies having their basis in the Australian conception of the working man and participation in the labor force. These trends align with modern conceptions of workfare, and came to be known as “Workfare Oz-style” or the “Australian Way” (McDonald & Chenoweth, 2006). More specifically, post-World War II Australian welfare state policies and practices were not concerned first and foremost with welfare or social security, but with the macro-economic and cross-national regulatory controls and agreements which would generate and maintain full employment. In particular, the basis of modern welfare states was not only full employment, but a male breadwinner model of employment (Cass, 2003; O’Conner, Orloff, &

Shaver, 1999), predicated upon an able-bodied individual, usually a male, participating in the labor market. The modern welfare state was characterized as part of the post-war “Golden Age,” which was purported to be an era of prosperity, equality and full employment (Esping-Andersen, 1996).

Neoliberal policy reforms by various governments since the 1980s have promoted an individualized model of citizenship (Cass, 1988; Cook, 2008; Cook et al., 2008), which has restricted the rights of many citizens, including people with disabilities. Reforms to disability policies and programs have systematically retreated from addressing the wider conditions that influence opportunities for participation in society, removing notions of human rights from welfare reform debates. In 1994 workfare initiatives began with the Labor government’s Working Nation program. That is, neoliberal policy reform in Australia has reduced the role of the welfare state (Carney, 2008).

Since the 1980s, mutual obligation has been a key part of Australian social policies (Cass, 1988). The concept was originally known as reciprocal obligation and was associated with receipt of unemployment benefits; continued receipt of these benefits subjected recipients to activity tests that promoted participation in the workforce through training programs and taking on part-time or casual work. In return, society had the reciprocal obligation to offer adequate income support and training programs (Cass, 1988; Cook, 2008). Mutual obligation replaced reciprocal obligation during Work for the Dole. Under this concept, people receiving benefits are expected to improve their skills and give something back to society in order to continue receiving benefits (Cook, 2008).

The Howard government (1996-2007) made mutual obligation a central feature of its welfare reforms and the neoliberal concepts underlying mutual obligation shifted Australian social policy farther away from notions of social welfare and collectivism to workfare with a focus on the individual and the importance of participation in the labor market (Alston, 2010). Under mutual obligation, recipients of unemployment benefits are obligated to actively look for employment and/or participate in employment-related activities in order to continue to receive benefits. Mutual obligation makes participation in the workforce the most fundamental duty that citizens have (Humpage, 2007).

In 1996, mutual obligation was applied directly to Australian social security and employment services. Those who received income supports were required to participate in work focused behaviors by completing Activity Agreements. Under this system, the focus was placed on deficits in individual unemployed people which collectively form the problem of unemployment (McDonald & Chenoweth, 2006). The Activity Agreements associated with mutual obligation can be very broad and include a range of training, rehabilitation, and job search activities. The work that is required under welfare reform is paid or unpaid participation, that is socially useful (Shaver, 2002). It is up to Centrelink (the government agency that administers benefits and other social services) to decide whether or not an activity meets this definition. Attention to the role that the government has to support these individuals is rarely discussed and discussions of welfare provision are down and aided by the attention on individuals (Alston, 2010).

In 2000, the Reference Group on Welfare Reform, commonly known as the McClure Report, provided the rationale for welfare reform in Australia. They noted the problem of welfare

dependency and the need to promote higher levels of employment. The McClure report offered five recommendations for improving welfare reform: (i) establishing an individualized service provision; (ii) reforming income support to be more simple and responsive to individual needs, including moving from conceptions of “income support” to “participation support” so that people are better able to participate in employment; (iii) incorporating incentives and financial assistance for people in or considering employment; (iv) promoting a system of mutual obligation that makes it clear that governments, businesses, communities and individuals have responsibilities to one another; and (v) building social partnerships that allowed communities to increase their capacity. This report also recommended extending mutual obligation to people with disabilities (Reference Group on Welfare Reform, 2000), although people with disabilities were not subject to mutual obligation until the Welfare to Work amendments in the 2005 budget. The McClure Report reframes citizenship within the prevailing culture of workforce participation as engagement with the labor market. The support available to an individual is based on their ability to work rather than what they need. This marks a transformation of the welfare state, shifting away from social rights and towards individual responsibility.

Thus, welfare reform has moved away from social protection to individual models, with a focus on labor market participation and minimal benefit levels. New welfare policies in Australia effectively commodify everyone. Economic principles, not social citizenship rights, form the basis of the relationship between labor and welfare (Carney, 2006c). Welfare reforms emphasize that beneficiaries should accept any job that is available to them, regardless of the position’s duration or quality (Carney, 2007b). The job-first policy principles emphasize economics over welfare, and welfare reform embodies increased emphasis on individual responsibility, generally

witnessed through participation in the workforce. Indeed, engagement with the work force has become essential in Australia and people who are not able work are seen as individually deficient in some way (Soldatic, 2009). Although Labor governments replaced Howard and the Conservatives in 2007, employment is still a central focus and the welfare system is still targeted and based on the ability to work. People on benefits in Australia face a high level of financial stress and welfare is now based on obligations rather than rights. Welfare and other benefits are no longer social rights in Australia (Chenoweth, 2008). The safety net has holes and obligation and responsibility take precedence over welfare.

Engels (2006) notes that by using the language of welfare dependency, some politicians in Australia viewed the government and policy failure as the source of the problem. There are numerous policy debates around welfare dependency and it has increasingly been mentioned in the national government. Welfare reform was intended to rectify policy failure and, as a result of the reframing that occurred, public opinion supported the principles of mutual obligation. The welfare reforms originally proposed, and included in the McClure report, use activation measures to encourage labor force participation. Mutual obligation is considered a policy response that can counter welfare dependency (Parker & Fopp, 2004). Implementing labor market requirements for beneficiaries is a way to get them out of the perceived welfare culture, but it could be emphasized that the government also has obligations which are crucial for ensuring that alternatives and opportunities are available for beneficiaries to participate.

4. **The policy context**

The preceding section detailed the political context and influences on national policy directions and this section will describe national policy as of August 2010. The political

context emphasizes employment and participation in society/the labor market. While a comprehensive review of the national policy context is outside of the scope of this dissertation, the following section will detail relevant aspects of employment and welfare policy as they pertain to reforms that impact the labor market participation of people with disabilities. This section focuses on current policy implementation and recent reforms, although some historical content is also included. Thus, the discussion that follows directly addresses the first research question: What policies/programs have been implemented regarding welfare-to-work for people with disabilities in Australia?

In 2005, the Human Rights and Equal Opportunity Commission asked a number of Government offices to respond to a request to help map government services. Programs relating to employment and income for people with disabilities can be found within Department of Employment and Workplace Relations (DEWR, now known as the Department of Education, Employment and Workplace Relations [DEEWR]), Department of Family and Community Services, Department of Human Services, Department of Education, Science and Training, Centrelink, Commonwealth Rehabilitation Service Australia, Office of the Australian Public Service Commissioner, Department of the Prime Minister and Cabinet, and Department of the Attorney-General (HREOC, 2005d). Clearly, employment is a critical issue that is linked with a wide range of policy domains. The next subsection details recent reforms that impact welfare and employment for people with disabilities and the subsections that follow describes policies as they currently stand.

a. **Welfare to Work and related reforms**

The 2005 federal budget contained the Welfare to Work Amendments, which took effect on 1 July 2006, and placed people with disabilities firmly within workfare/welfare reform discourse. The government used two core neoliberal policy strategies in the reforms: (i) reducing welfare dependency by raising employment participation levels and (ii) slowing the number of people receiving income support benefits by restricting eligibility (Bill, et al., 2004). The reforms directly impacted on people with disabilities through restrictions to eligibility for the Disability Support Pension (DSP). From 2006 people with disabilities who were assessed as being able to work 15-29 hours a week at award wages in the open labor market were no longer eligible for DSP. Rather, they are placed on Newstart Allowance, an unemployment payment that requires individuals to undertake 15 hours a week of paid work or participate in employment services; engage in job search activities and undertake mutual obligation activities. When the reforms were announced, it was estimated that these rules would move 60,000 applications for Disability Support Pension onto Newstart Allowance (which is paid at a lower rate) per year. People on Newstart Allowance lose 60 cents for every dollar earned over \$250 every two weeks, while those on DSP lose only 40 cents (Brotherhood of St. Lawrence, 2005). Changes to the 2009 Australian Federal Budget increased this to 50 cents for every dollar for people on DSP (National Disability Services, 2009).

These reforms have attracted a number of criticisms by disability scholars and advocates for being punitive (ACOSS, 2005b; Carney, 2007a; Humpage, 2007; Soldatic & Chapman, 2010); restricting participation to those that providers think will be economically beneficial for them (Carney, 2007b; HREOC, 2005h); not focusing on individual rights within the Job Network

(Carney, 2006c); placing additional financial stress on people with disabilities by making it harder to qualify for benefits and changing withholding rates (HREOC, ACOSS, 2005a; 2005f); and not giving attention to other benefits, including cost of disability and mobility allowances, health concessions and the availability of accessible transportation (HREOC, 2005f). Additionally, the reforms erode the international rights of people with disabilities as outlined in the CRPD, as they prioritize individual behavioral change over broader socio-cultural and political economic restructuring of existing institutional and attitudinal barriers (Horn, 2010).

People who can work 15-29 hours and who require less than 26 weeks of post-placement support will be directed to either a Job Network or vocational rehabilitation service provider. Those people who require between 26 weeks and two years support will be referred to a Disability Employment Service (DES, previously known as the Disability Employment Network [DEN]) provider. The number of places for people who can work 15-29 hours and who need less than two years support are not capped, as they were previously. However, from 1 July 2006, people with disability who want a job, but who require more than two years support are referred to a DES service provider and the funding for these long term support places will be capped. Those people assessed as capable of working less than 15 hours will also be referred to one of the capped DES places (HREOC, 2005h).

Additional reforms have restructured employment services for people with disabilities in Australia. While Australia has an extensive arrangement of sheltered employment, known as Australian Disability Enterprises, the employment programs that are most relevant to this dissertation are employment services through the Job Services Australia (JSA, previously known as the Job Network [JN]) or Disability Employment Services. Job Network services are general

and Disability Employment Services are for people who need more support in employment because of a disability (Macali, 2006). Since March 2010, reforms to disability legislation, programs and services have attempted to address earlier critiques by offering more accessible and responsive employment services to people with disabilities. This includes removing the cap on the number of spaces available in Disability Employment Services; offering two different employment pathways, one for people who are not expected to need long-term support (Program A – Disability Management Service), and one for people who will need ongoing assistance (Program B – Employment Support Service); and allowing 18 months of individually tailored case management assistance (DEEWR, 2008).

When considered together, the influence of neoliberalism is evident in this series of reforms. Many people with disabilities now have labor market obligations and have been recast as potential workers rather than people with disabilities. The supports, services and benefits available to this population have been curtailed with an emphasis on individual responsibility and meeting one's needs through the market. For people with disabilities who remain on DSP, employment services are available, though the programs depend on competition through Job Services Australia and Disability Employment Services and focus on those who are easiest to achieve outcomes for.

b. **Benefits and income support**

This subsection looks in more detail at the benefit and income support policies that are in place for people with disabilities. A brief historical context is given before describing the primary programs – Disability Support Pension and Newstart Allowance – in

detail. A few of the other allowances available to people with disabilities in Australia are also mentioned briefly.

i. **Historical policies**

It was not until the latter part of the 20th century that benefits in Australia began to be targeted at specific populations. During the 1970s, social democratic tendencies began to influence the Australian welfare state. The most enduring of these policies is universal healthcare in the form of Medicare, which is still active today. This trend introduced social rights alongside the history of industrial rights (as mentioned in a previous section, historically the Australian welfare state supported male breadwinners to provide for their families) (Chenoweth, 2008). The emphasis on social democratic policies was short-lived as the influences of economic globalization, neoclassical economics, and neoliberal policies put the focus back on business and competition. Australia began to pay more attention to macroeconomic policies such as inflation, unemployment, and underemployment along with a preoccupation with controlling the budget deficit (McDonald & Chenoweth, 2006). Still, some income maintenance programs began to develop. Most of these follow the social assistance model, where income support is targeted at certain groups, independent of previous earnings and is not time limited (Pawlick & Stroick, 2004). The model is means-tested, flat-rate, targeted at specific categories of the population and funded by tax revenue (Carney, 2006a). Among these are programs and benefits directed at unemployed individuals, people with disabilities and lone parents. Notably, these include the Disability Support Pension and Newstart Allowance.

Overall, Australia's policies promote labor market participation by keeping the total income of beneficiaries below minimum wage rates. Thus, it does pay to work rather than receive

welfare, levels of benefit in Australia do not compare to the economic rewards of working (Carney, 2008). Income maintenance programs in Australia create a space within the market that sets the terms and conditions of work poor beneficiaries; this could be construed as a disciplinary framework (Carney, 2006c).

ii. **Disability Support Pension**

Disability Support Pension was introduced in 1991 and replaced the Invalid Pension and Sheltered Employment Allowance with a single payment. It did not pay attention to structural disadvantages and conceptualizes impairment in terms of employment capabilities (Soldatic, 2009). In order to qualify for DSP, there are age and residency requirements, in addition to having an impairment assessed at 20 points or more, the inability to work for the next two years, or be permanently blind. Payments for the DSP are higher than payments for childless and single unemployed persons, but are less than average weekly earnings for those in employment. Those who receive DSP are also eligible for a number of concessions, including Rent Assistance, Mobility Allowance, Telephone Allowance, and Pharmaceutical Allowances. Beneficiaries are allowed to work while on DSP and have their benefits will reduced according to a taper rate, but these rules are contradictory since beneficiaries are supposed to be incapable of work but are encouraged to undertake paid employment to have a better standard of living (Humpage, 2007). As of 2002, 88 per cent of DSP recipients were economically inactive, and only 10 per cent were employed. Data from 2008-09 show that 41.7 per cent of DSP recipients between 16 and 64 years of age did not participate in the labor force, 32.7 per cent were employed to some extent and 24.8 per cent were unemployed (AIHW, 2011).

A review of those in receipt of Disability Support Pension between 1995 and 2002 found that entering DSP from unemployment benefits reduced the chances of ever leaving DSP. Additionally, a cyclical pattern exists where most people who exit DSP because of employment eventually wind up on the program again (Cai, Vu, & Wilkins, 2006). In order to address some of the concerns associated with this, the Welfare to Work reforms made it so that after 1 July 2006 there was a safety net of two years where someone can return to DSP within two years if they lose their job for any reason (HREOC, 2005f).

A recent study compared 57,577 people who have participated in labor programs and found lower total employment outcomes but higher overall net impacts for people receiving DSP or parenting allowances than people receiving short term or transition benefits, such as Newstart (DEEWR, 2010). The results held for both people receiving intensive support customized assistance through mainstream services and those receiving specialized assistance through DEN (see later subsection). Although there may have been a “creaming effect,” the authors argue that there are greater benefits for people on DSP and single-parent benefits if they are more actively engaged with the labor market. In order for more people with disabilities to be engaged with the labor market, additional reforms are needed to promote incentives and opportunities for employment.

One reform that has done that is the Secure and Sustainable Pension Reform amendments to the 2009 budget, which made a number of changes to DSP recipients. Most notably, they increase the rate that the pension is paid by \$32.49 per week for people who receive the full rate. This extends reforms that were introduced a year earlier that allow people receiving DSP to access other allowances, including the utilities allowance. These reforms to the 2009 budget also

changes some of the assessment, including fast-tracking some conditions, updating the Impairment Tables, and making changes to the way they pay medical professionals for their services (Swan, Macklin, & Shorten, 2009).

iii. **Newstart Allowance**

Following Welfare to Work, those people who were deemed ineligible for DSP were directed onto Newstart Allowance (NA). Newstart Allowance was introduced in 1989 as a program that used interviews with the long-term unemployed to review eligibility for benefits and work on training and other employment strategies, but the 1991 Active Employment Strategy introduced Jobsearch Allowance (JA) and Newstart Allowance to replace Unemployment Benefit (JA for people unemployed for less than a year and NA for those unemployed for longer). Under these changes, the long-term unemployed were recast as jobseekers. The move to these allowances stressed activation by having all beneficiaries engaged with mutual obligation and enter into activity agreements that detailed the activities they were to undertake or face breaching penalties (Cook, 2008).

Newstart Allowance pays people with disabilities \$200 a week in benefits. A person working full time at the minimum wage would make twice as much per week than this allowance provides. They experience numerous obligations in order to receive benefits, including intense job searches, working for the dole, or participating in employment programs. Specifically, they include registering with a JN/JSA provider and signing a work agreement; looking for up to 10 jobs every two weeks and reporting them to Centrelink¹⁴; and maintaining a diary of job search

¹⁴ Centrelink is a federal agency that oversees most public benefit programs in Australia. Its main role with regard to welfare reform is to determine and monitor eligibility for pensions and allowances and mutual obligations.

efforts. After three months on the program, one must participate in a three-week job search course; after six months on the program, one must participate in Work for the Dole, part-time work, or volunteer; and after a year, one must participate in customized assistance through the JN/JSA. Failure to meet these obligations results in fines and loss of benefit. These requirements are among the strictest in the OECD (ACOSS, 2008). Recipients of this benefit have taper rates that allow part-time work. This allowance is based on income tests; if a part-time worker earns more than the threshold, they lose a percentage of their benefit for each dollar above that threshold. The Welfare to Work on amendments changed these rates to allow beneficiaries to keep more of their benefits if they worked. For people who earn more than \$250, the rate has been changed to 60 cents per dollar, whereas it had been 70 cents per dollar previously (HREOC, 2005f). This change embodies the importance of labor market participation within Australian social policy.

iv. **Other allowances**

In addition to Newstart Allowance and Disability Support Pension, the Australian system of income support includes a range of programs including: Sickness Allowance, Wife Pension, Carer Payment, and a Disability Pension through Veterans' Affairs, in addition to specific concessions and allowances (Australian Institute of Health and Welfare, 2007). The Mobility Allowance is an allowance that covers the transportation costs of people with disabilities who cannot use public transportation without substantial assistance. This allowance only allows people to participate in qualifying activities, including employment training and life skills courses (Carney, 2008). Again, the emphasis on labor market participation is clear. The Welfare to Work Amendments also impacted several of these benefits: they

increased the Mobility Allowance to \$100 per fortnight; made those receiving Newstart eligible for the Pensioner Concession Card, Pharmaceutical Allowance and Telephone Allowance; and extended the Employment Entry Payment of \$312, which a person can claim once in a 12-month period, to those on Newstart as well as DSP.

Reforms to benefits since 2005 have emphasized moving people with disabilities from DSP to Newstart Allowance if they can work more than 15 hours per week. The government has realized the importance of other benefits to this population as they pursue employment by extending eligibility for a few other benefits to those on new start. Changes to withholding rates for people who work while they are on benefits allow them to keep more of their income, which encourages more labor market participation. Neoliberalism has influenced these reforms by promoting paid employment as much as possible.

c. **Employment services**

This subsection will detail the employment services that are available to people with disabilities in Australia. After briefly reviewing historical policies, it describes Disability Employment Services/Disability Employment Network and the role of the Job Network/Job Services Australia.

i. **Historical policies**

Over the past several decades, employment has been an important aspect of Australian social policy, as evidenced by the wide range of policies, programs and initiatives adopted over the years. In 1994, the Prime Minister Keating stated his Government's position that "every Australian has a right to job" and that "[u]nemployment, particularly long-term, is inherently unfair" (quoted in Cook, 2004). These comments came on the heels of the

policy known as Working Nation, which was designed to improve the skill level of Australians so that they can find better employment. Therefore, a full dozen years before completion of the United Nations Convention on the Rights of Persons with Disabilities, the Australian government had already recognized that employment was a right of its citizens. However, reforms that have been introduced since that time have coupled rights with responsibilities.

For Australians not in mainstream employment, Work for the Dole is a major national initiative that sought to provide work experience in an effort to assist people in to the labor market. However, evaluations of this program show that only 25 per cent of people with disabilities are able to leave it and find employment on the open labor market. It has been argued that one of the reasons that this program is not more effective is because people with disabilities reduce their efforts to find employment while they are participating in Work for the Dole, which reduces their overall job prospects (ACOSS, 2005b). That is, the program can be seen as an alternative to employment.

One of the major obstacles that long-term unemployed people face is that they have low skills. Approximately 36 per cent of working age Australians are low skilled, meaning that they have not completed 12 years of school. This is one of the highest percentages in the OECD (ACOSS, 2008). One of the programs that has been introduced is Skills for the Future, which was announced in late 2006 and provides 30,000 Work Skills Vouchers to give people a second chance at education (to get up to year 12 qualifications) or vocational training. Those involved in the Job Network are eligible for this program (ACOSS, 2007).

Cook (2008) traces the development of such activation policies in Australia to the McMahon Government (1971-72). Expenditure on active labor market programs reached its peak

in 1995 when 0.84 per cent of GDP dedicated to these programs, a figure which fell to 0.45 per cent of GDP in 2005. In contrast to other OECD nations, Australia concentrates its efforts on job placement and other public employment services and spends less on unemployment and labor market measures (Shaver, 2002). This encourages people to accept any job for the sake of employment rather than addressing the wider employment conditions or the economy, which is elaborated on in the analysis.

ii. **Disability employment programs**

Disability employment programs in Australia are run by two separate government departments: open employment services are under the Department of Education, Employment and Workplace Relations (DEEWR) while sheltered workshops (known as Business Enterprises) are operated by the Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA). A third option, the Commonwealth Rehabilitation Service also exists, but it is generally for short-term vocational rehabilitation, mostly for returning servicemen (Macali, 2006). Although Australian Disability Enterprises are increasingly focused on social enterprises and a mixed workforce (Council of Australian Governments, 2010) and Soldatic (2009) notes the influence that neoliberalism had on rebranding sheltered workshops into business enterprises, this dissertation focuses on disability open employment services because those are the programs that people with disabilities who have been impacted by welfare reforms participate in.

People with disabilities can receive employment services from two different sources: the Job Network, which is general unemployment services, or Disability Employment Services (DES, known as the Disability Employment Network [DEN] prior to 1 March 2010), which are

for people who need more support in employment (Macali, 2006). A review of DEN, which included input from a variety of sources, identified four strengths to build on as it shifted into DES: it was based on a legislative framework and has to meet service standards, there were specialist services for specific types of disability, it recognized that capacity should be considered when determining a participant's level of employment, and it provided support after placement. The areas that were identified for improvement included the need to remove the caps on the program because some people have to wait for services; revise the assessment procedure because it was too complex and people were referred to the wrong services; offer more flexibility to provide ongoing support; realize that there was no incentive for providers to provide much skill development or training, rather, they are encouraged to obtain outcomes through short-term jobs; there were few services in remote areas; and that the Employer Incentive Scheme is too complex to be used often. DEEWR (2008) produced a discussion paper that addressed these concerns and proposed changes to Disability Employment Services in Australia. The model they proposed and implemented uncaps services so that all job seekers could have a place in employment services; allows services to be more tailored to job seekers and employers; simplifies administration to allow providers to focus more on jobseekers; and improves services in remote areas. Part of these reforms improve funding structures for providers so that providers that perform well do not have to tender for business, pay service fees quarterly and in advance, and offers a bonus outcome payment as an incentive.

In 2008-09, approximately 110,000 people with disabilities participated in an employment service; 88,000 of these were in open employment services, and 22,000 received supported employment assistance (AIHW, 2011). The characteristics of users in both of these

services were that they were primarily male (60% and 65% respectively) and aged between 25 and 44 years (42% and 49% respectively). The median age was 37 and 39, respectively. Four out of five (80.1%) of open employment service users were born in Australia compared to 91.2 per cent of supported employment services. One of the primary differences is the disability type of the service users; psychiatric disability (34.4%) and physical disability (28.3%) were the primary disabilities of open employment service users, while intellectual disability (13.7%) was reported less often. Hearing (3.1%) and visual (2.6%) were also not reported often. In contrast, intellectual disability (68.7%) was the most reported among users of supported employment services, with few people reporting physical (6.5%), hearing (0.9%) and visual (1.6%) disabilities.

For people with disabilities receiving open employment services, their main source of income is DSP (39.7%) or another source of benefits (37.5%). A small number of people with disabilities (3%) in these services say that paid employment is their main source of income. The majority of people receiving employment services (83.1%) did not have informal care needs. The largest portion of these users lived with family (39.7%), followed by a living alone (29.6%) and living with other people (29%). The majority of employment service users (84.6%) did not use any other services offered under the CSTDA (AIHW, 2011).

As Carney and Ramia (2002) point out, the Howard government pushed services away from process to outcomes by emphasizing performance based funding and competition. This has been a lasting feature of welfare and employment service reforms and is still a contentious issue. The new model for providing services to people with disability will have two parts: Program A is for people who are expected to need job assistance but not long-term support, while Program B

is for people need more intensive ongoing support. Each program can last up to 18 months, and if employment is not found the job seeker will undergo a new Job Capacity Assessment (medical test of how much an individual is expected to work) and complete a new Employment Pathway Plan. Payment structures are arranged around three areas: service fees, outcome fees (at 13 and 26 weeks and for a full outcome), and ongoing support fees. Fees are higher for those assessed as being more disadvantage. Additional fees are also available for placing a worker in an area of skills shortage or into a training course relating to the specific needs of a local labor market (DEEWR, 2008).

Disability Employment Services provide a range of services to jobseekers with disabilities in order to prepare them to return to work. These include job search assistance and support; assistance managing issues related to a disability; support in work; and off-site support for those who do not disclose their disability. For employers, DES can help recruit and select employees; train new employees; provide follow-up and back-up; re-train employees; and provide advice and training to co-workers about issues related to employing people with disabilities (HREOC, 2005g).

When the government announced in May 2008 that employment services for people with disabilities would not be included in universal employment service, they identified nine principles to be considered under reform: (i) build on the strengths of the existing approaches, including early intervention for job seekers; (ii) create a less complex system that connects job seekers to the right service and provides flexible assistance; (iii) match the intensity of service to the individual needs of job seekers; (iv) tailor services to the circumstances of job seekers with disability, including meeting their education, training and capacity building needs; (v) respond

effectively to employer requirements, including meeting skills shortages; (vi) promote equity for people with disability in access to services; (vii) minimize the amount of time and money spent on administration, including on contract management; (viii) provide the greatest rewards when providers find sustainable jobs for job seekers; and (ix) ensure that performance management systems and purchasing arrangements properly account for quality performance (Department of Education Employment and Workplace Relations, 2008, p. 6). While these suggestions would create a system of employment services that align with many human rights principles the challenge is in putting them into practice. The government understands that the rhetoric of creating a good system of services, and the perspectives of people with disabilities that are presented in the next section begin to show how they have been implemented.

iii. **Job Services Australia**

In 1998, the Government replaced its existing unemployment services with employment services that operated under market mechanisms and which consisted of two kinds of providers: the Job Network and Centrelink (Chenoweth, 2008; McDonald & Chenoweth, 2006, p. 117). Job Network is the provider and Centrelink is the administrative body of benefits and employment services from the federal government. The JN was rebranded as Job Services Australia from 1 July 2009.

The Job Network replaced the Commonwealth Employment Service in 1998 and is the main provider of employment services in the country. The Job Network was introduced to address the problem of unemployment and enforce mutual obligation, the idea that if welfare recipients want to continue to receive benefits they need to participate in active behaviors directed at finding a job (Chenoweth, 2008). It is comprised of private and nonprofit community

providers, including charities and NGOs, that contract with DEEWR. However, since 2003, the providers have not operated under a purely competitive model, with only 40 per cent of contracts open to competition (Cook, 2008). The Government grades the providers, which helps jobseekers find the best service for them. Early evaluations found that the Job Network performed as well as the previous public employment service but had much lower costs. Providers serve a range of individuals including people with disabilities, the indigenous population, and lone parents (Tergeist & Grubb, 2006). Three different services are offered: job matching, job-search training, and intensive assistance. Providers are funded for commencing service delivery with an individual and for employment outcomes that an individual achieves at 13 and 26 weeks. The government believed it would be more effective because it allowed for greater competition, increased flexibility based on individual context, and it had the goal of more job outcomes rather than a fixation on inputs (Mendes, 2008). The focus on outcomes implies a need for efficiency among providers, which reveals underlying neoliberal influence. It remains to be seen whether this funding structure promotes equality of opportunity for all people with disabilities.

Job Network providers offer two basic service tracks: access to an electronic system that contains job vacancies for the most employable people with disabilities and, for the longer-term unemployed or those considered difficult to serve, Intensive Support Customized Assistance (ISCA). Under ISCA clients work with a case manager to become job ready and face penalties, known as “breaches,” for failing to comply (Chenoweth, 2008). Outcomes for the Customized Assistance program have shown that 13 per cent of people with disabilities eventually find full-time employment and 27 per cent are employed part-time (ACOSS, 2007).

The Job Network has been described as a “black box” because researchers are unsure of how it works (Chenoweth, 2008). What is understood is that case managers are bureaucrats who embody the spirit of workfare and try to instill those values in consumers. They have a power relationship with consumers, and often report that if they breach (report negatively on) a participant, that person will be more likely to find a job (McDonald & Chenoweth, 2006). Though its operations remain a mystery, McDonald & Marston (2005) show that the staff is held to performance standards and face penalties for outcomes, just as people with disabilities are. These standards are part of the Government’s Employment and Related Services Code of Practice (Cook, 2008).

Cook (2008) conducted focus groups with JN staff. The themes she found included that staff faced too many administrative burdens that prevented them from being more effective; could not use discretion when policing compliance and felt guilty after breaching; thought most jobseekers had positive attitudes toward wanting to work; found that lack of skills was a barrier, but in some instances this was because an employer expected too much; found transportation to be another major barrier; expressed frustration that individuals they had helped onto DSP now had JN requirements; found the Personal Support Program to have too few placements and resources to be effective; generally thought they were not adequately trained; and thought that the competitive model of JN was a negative and too focused on outcomes. The emphasis on outcomes encouraged staff to “cream” and “park” people with disabilities, focusing on those easiest to place.

Cook (2008) continues by reporting that the Australian National Audit Office found evidence that ISCA did not operate as expected. The design of JN means that these services are

contracted out and JN does not have complete control over its delivery. The review found that advisers did not meet with clients as often as they should, frequently failed to document employment barriers, rarely offered counseling or training to overcome those barriers and had very little customizing of services. Job Network staff believed they should offer adequate services but were not sure how to deliver those services to disadvantaged job seekers, including people with disabilities. Furthermore, staff expressed concerns that they were not adequately trained and could not access specialized services for people with disabilities (Cook et al., 2008).

In 2005, the Human Rights and Equal Opportunity Commission's National Inquiry into Employment and Disability solicited comments from individuals and organizations regarding the JN. These comments focused on several themes: many service providers reported that they receive inappropriate referrals from Centrelink; organizations questioned whether Centrelink is the best organization to do the referrals because people with disabilities view them negatively; they thought it was positive that Welfare to Work allowed people receiving DSP to approach the Job Network for services whether or not they had a referral from Centrelink, which can be seen as promoting choice and that allowing people to have more control; and there was concern that JN cannot provide appropriate services because they are not trained to handle people with disabilities (HREOC, 2005a). Several submissions indicated the importance of the disability expertise and ongoing long-term support provided by DEN/DES compared with Job Network (Human Rights and Equal Opportunity Commission, 2005h). These submissions question the inclusion of human rights for people with disabilities in welfare reform. The influence of neoliberalism is clear and welfare reform since 2005, although the incorporation of the human rights approach to disability within these policies is not. The analysis of the perspectives of

people with disabilities that follows begins to answer that question for the policies as they are implemented in Sydney.

B. Results and Analysis

This section presents the thematic results and provides analysis of focus groups that were conducted in Sydney with 24 people with disabilities. Seven primary themes emerged from the discussion, and these are explored below with specific attention given to how they embody the principles that underpin the CRPD. The themes are: (i) international human rights and national antidiscrimination; (ii) the economy and employers; (iii) skills, capabilities and quotas; (iv) responsibilities of citizens and government; (v) employment services and finding employment; (vi) getting involved with a service provider; and (vii) information and communication. These themes emerged specific to Australian welfare reform and have roots in the literature on welfare reform. These themes provide important insight into the experiences of people with disabilities related to welfare reform and directly relate to their research questions that this dissertation addresses.

1. International human rights and national antidiscrimination

The role of international human rights and national antidiscrimination legislation is important for the employment of people with disabilities, and is more pertinent because this dissertation uses the United Nations Convention on the Rights of Persons with Disabilities (CRPD) as a framework. People with disabilities were aware of the CRPD, felt as though they had a fairly good understanding of what the purpose of it was, and knew that Australia was one of the signatories. Although they were supportive of human rights in principle, there are concerns about how rights are actually translated into practice. There was general agreement that this

international treaty was useful to ensure that the Australian government promoted and enabled human rights of people with disabilities, but discussions turned quickly to its practical application. “They [the federal government] signed it but they don’t enforce it. Like doing something prestigious for the incoming government, and that’s it. The person that signed it was in limelight for one hour and that’s it, how many people knew that they signed it, not many?” (Kurt, male, age 49, physical disability). People with disabilities wondered what effect it would have beyond serving as a symbolic gesture, and thought that human rights have been centered on the “public relations” of government and business, rather than implementing real change at the grassroots level. “It’s great that Australia signed it, but what kinds of policies do you have to put in place to have these rights in place? The question is yes, you have the right to them, but how do you actually, how do you put that in place?” (Gus, male, age 26, mental health). This quote highlights the tensions that human rights have with national policy. While the CRPD is essential in ensuring people with disabilities equal opportunities, this research revealed that international rights are useful predominately to the extent that they can effect change at national, state and local levels. Recognition of this tension in general shows that people with disabilities did not think that human rights are well implemented in welfare reform in Australia. They acknowledge that they could be useful, but the challenge is in ensuring that human rights are implemented and not just talked about.

One disconnect that people with disabilities noted was between policy rhetoric and practice in terms of national antidiscrimination legislation. The 1992 Disability Discrimination Act (DDA) protects people with disabilities across a number of interrelated policy domains. However, anti-discrimination legislation does not have the capacity in itself to address the

fundamental problems confronting people with disabilities generally. While the DDA has made a number of significant changes in areas of transport, access to buildings and telecommunications (HREOC, 2003), it is now considered not to have had the intended impact, particularly in the area of employment (Macali, 2006). There was emphasis that although rights may be in place, the government needs to support them further, again highlighting disconnect between policy discourse and practice. “I reckon governments don’t have to [provide employment], but if I apply for a job you can’t say ‘no’ because of the disability - it’s too discriminating” (Yuri, male, age 20, Asberger’s). Furthermore, although there may be a right to employment, they need to be able to access services and support such as equipment and technology. This is a critical issue for welfare to work policy reform, which cannot be successful unless there are concurrent policy developments to support the stated aims of legislation. Rights-based legislation is only the first step towards securing full and equal rights in all socio-cultural and political-economic spheres. A willingness and commitment by the government is also required for real change to occur.

Many people with disabilities doubted that the willingness and commitment by the government and employers was present. One person with a disability summarized how the others felt about the way that employers viewed the DDA:

I just think that it’s something that’s written on paper. No prospective employer really takes it into account at all. I think, not so much government jobs, government are more willing to take people with disabilities into employment, but in the private sector whenever they realize or are told that you have a disability, they immediately think along the lines of ‘worker’s compensation cost, liability

costs...no we better not'. They never say it to you, but you know that that's the first thing going through their mind (Ida, female, age 53, Cardiac Patient).

Like many of the other people, Ida was aware that the need for efficiency and profit (note: these are central to neoliberalism; refer to chapter 2) took precedence over disability rights. Another person made this point a different way: "No one follows it [anti-discrimination policy]. Every employer wants speed and the best person for the job, and I don't like it, but I keep applying" (Pete, male, age 40, Acquired Brain Injury). The experiences of people with disabilities are that their rights are still subordinated to the needs of the market and employers.

One of the areas where this was most evident was in the employment process and people with disabilities continue to feel that they experience discrimination when applying for a job:

When I was looking for a job I told them that I had a visual impairment and mild cerebral palsy so I walked in there with a cane that visually impaired people use and the person just said to me, 'Ok, well, I don't think you can do the job or are a suitable candidate for the interview' and didn't take me for the interview... I decided not to tell anybody or not to complain because it takes a long time for something like that to go through so I didn't want to put my family or myself under stress from the procedure (Anne, female, age 26, physical and visual disabilities).

This kind of discrimination was a common occurrence to people with disabilities and is covered in more detail in the next subsection.

Despite these experiences, most people with disabilities wanted to work and were willing to do everything they had to in order to find employment: “Everything has a political agenda behind it. In terms of human rights, my brief encounter is that what we have in Australia, all rights and acts and things come about by people kicking and screaming” (Chris, male, age withheld, visual disability). Another individual emphasized that more education on antidiscrimination for people with disabilities might help, but individuals still largely had to fight for their rights on their own.

The thing is, you never give up. If you really want something, despite the [lack of awareness and education on] disability law you’re just going to keep trying and see what’s out there... there needs to be more education out there, in terms of the EEO - employing equal opportunity. I think that more can be done to fulfil that (Hank, male, age 35, visual disability).

This theme reveals that people with disabilities were aware of their rights but were skeptical about how rights, both international and national, were put into practice. The overall opinion was that these acts were largely symbolic and had a minimal effect on how they experienced policies related to the labor market.

The issue of rights instigated many of the themes and debates presented in the rest of this chapter, notably experiences with the employers and the need for their skills and capabilities to

be recognized. The feeling that permeated throughout the experiences of the people with disabilities in Sydney was that rights were difficult to use practically and more work is necessary to ensure that human rights are a larger part of policy reform. Non-discrimination is one of the principles that the CRPD is built on, and the DDA embodies this principle in rhetoric, but this research, and existing policy analysis, suggests that that goal has not been put into practice well enough to make a difference. The concerns of the business community and need for efficiency within the market take precedence over nondiscrimination in many instances. Welfare reform has not impacted this area of policy in Australia, and before people with disabilities can participate in the market at a higher level that is more equal with peers without disabilities, wider issues of rights must be addressed. Then next subsection presents perspectives on those wider issues, particularly and the economy as a whole and the way that employers treat people with disabilities.

2. **The Economy and Employers**

People with disabilities noted that there were issues in the economy and among employers that prevented them from better labor market opportunities. The people with disabilities who participated in the focus groups were motivated and eager to work, a finding that Cook (2008) also reported in her focus groups with Job Network staff. This finding contradicts many of the reasons that welfare reform was instituted (notably, that there was a culture of dependency) and raises questions about why they are not able to find work more easily. The programs that the government has instituted have not worked as well as they were envisioned. This research suggests that a wider focus, on more structural barriers, needs to be considered, but

these necessitate a change in the cultural climate of the employment market in order to be successful.

As an earlier section of this chapter explains, welfare reform in Australia originally focused on people considered long-term unemployed, and policy sought to reduce welfare in order to reduce dependency; the root cause of this social problem was understood to be located in the individual (Chenoweth, 2008). However, after the reforms to DSP eligibility, many people with disabilities are now impacted by the reforms alongside sole parents and unemployed people, so public and employer perceptions of disability need to regard people with disabilities as “workers” in order for these reforms to be effective (Alston, 2010). This new policy approach embodies individualist principles and results in policy contradictions: on the one hand a universal structural approach to unemployment mediates disability equality, as it treats all people in the welfare system the same; conversely, removing notions of difference ignores wider structural barriers that prevent people with disabilities from entering or re-entering the labor market. The CRPD explicitly identifies and promotes the need to recognize and accept differences as one of the principles it is based on, so a policy that does not account for the differing needs of people with disabilities does not meet their human rights. Policy needs to be flexible enough to recognize the unique challenges that individuals are facing.

Although people with disabilities may have the desire to participate in the labor market, the OECD (2009a) note that when they do, people with disabilities are likely to have part-time employment, low relative income levels (except for the highly educated who are employed), and are more likely to live in or near poverty. This has been exacerbated with the recent economic decline, which, as one person noted, increased the barriers:

I think the difficulties we're up against in finding work is the state of the economy with the times being so bad and there's so many people losing their jobs, you're competing with so many people, many more people, also a lot of them are very qualified and just lost their jobs due to the economic state, so I think that's one reasons - being up against so many qualified people (Leo, male, age 42, Obsessive Compulsive Disorder).

People with disabilities experience additional structural barriers in a precarious employment market, and active workfare programs (especially those that mandate employment to receive benefits), need to be flexible in their approach to enable marginalized groups move in and out of the labor market without fear of loss of benefit or other services. However, the Australian labor market is not equipped for full employment because 28 per cent of jobs (including half of low skilled jobs) are part-time. The financial incentive to take part-time work is low beneficiaries lose a significant portion of their benefits for their earnings from part-time work (ACOSS, 2008). Coupled with competition from people without disabilities, the current policy context does not adequately give attention to individual needs, and without recognition of disability on an individual basis, it is difficult for them to move into a labor market position that improves their economic situation.

This is part of a broader social policy issue. Carney (2007b, 2008) argues that while there are some demand-side policies available (i.e. subsidies for employers), such policies are not emphasized, and reforms do not pay enough attention to areas such as education and skills development programs for beneficiaries. Similarly, Horn (2010) suggests that current welfare to

work policies and programs have placed too much emphasis on individual factors and supply-side policies, with little regard for demand-side policies or changing the broader labor market. Many of the people with disabilities in this research expressed confusion and frustration with the direction of government. One person noted, “Government attitude to people with disabilities is terrible. They push in one direction and pull you in the other; no matter what you do you can’t win. Their attitude and the way they perceive people with disabilities has to change. I don’t know how” (Kurt, male, age 49, physical disability). The underlying point is that the government (and business) needs a better understanding of the capabilities of and respect for people with disabilities.

Most people want and choose to work for more than just an income; however people with disabilities often lack the opportunity to demonstrate skills. From the employer perspective, one of the reasons that employers are hesitant to hire more people with disabilities is that they have inadequate information regarding hiring them, they face additional costs, and they may have concerns about additional risks they may face (HREOC, 2005e). From an individual perspective, there was consensus among people with disabilities that they just needed the chance to demonstrate their employability and capabilities to employer: “I think we’re all capable of contributing to making money, but I think it’s the whole - the employer giving us a chance and seeing what we’re capable of doing. To a point the employers won’t know or understand because they’re not in our shoes” (Sue). The focus groups that Waterhouse et al. (2010) conducted with employers found that employers are willing to hire people with disabilities but are not sure that they have the knowledge and capability to do so. Additionally, employers are not concerned that people with disabilities receive formal training through disability employment services as much

as they are concerned with their capacity to provide support to employees with disabilities. That is, employers said they were not afraid to hire people with disabilities, but they were concerned with their ability to work with and provide adjustments to people with disabilities on the job. It is evident that employers need more disability sensitivity awareness. People with disabilities noted that such efforts need to come from government: “Businesses have an attitude that they don’t want people with disabilities but if government worked with them to change those attitudes then there would be more opportunity for people with disabilities to be in the workforce” (Gus, male, age 26, mental health).

People with disabilities held negative views of employers, with the majority of people with disabilities feeling as though employers did not want to hire people with disabilities: “It’s almost like employers are slightly biased in that category, they want someone who can work longer and not take breaks all the time” (Quinn, female, age 20, physical disability). This comment shows that the people with disabilities understood that often times their rights were subverted to efficiency within the labor market and individual businesses. Related to this, there was a perception that employers were concerned about accountability if a person with a disability was injured on the job: “Employers freak out, especially with people with visual impairment, that if something happens they will be accountable and so they don’t want to employ you” (Barb, female, age 60, visual disability). Such views have been supported elsewhere in the literature. Barnes and Mercer (2005) argue that one of the major barriers to meaningful employment is employers’ perceived misconceptions about employing people with disability, which limits the supply of appropriate employment to people with disability and acts as a disincentive for people who have previously experienced discrimination in their job-seeking activities. This

demonstrates the relevance of and need for measures to address employers' needs and concerns, coupled with policies raising awareness of the benefits of employing staff with disabilities (DEWR, 2004; Disability Investment Group, 2009).

The main solution they suggested to ameliorate negative perceptions in general was education and cultural competency development for employers and the general public; with some people believing that awareness and education about disability is coming too late to change attitudes. They wanted information on disability and people with disabilities on disability to be included in schools and available to the public. Current disability campaigns were viewed favorably, particularly in relation to the language that is being used to describe disability:

There's a lot of education [for employers and society] required... there has been a NSW Govt campaign on "don't dis my ability" so even the word, 'disability'... there's some perception that needs to change: people think that because we have a disability that there's part of us that cannot function.. Maybe even change the English word, disability'... there's nothing dis about our ability (Chris, male, age withheld, visual disability).

Human rights cannot be realized without greater recognition of the abilities and skills that people with disabilities bring to the workforce. As Bailey (1990) argued, for groups that are marginalized from the mainstream it takes more than the elimination of discrimination to achieve equality. In particular, employers need to further recognize and appreciate those skills and value people with disability as important contributors to the workforce.

Discrimination is still persistent in Australia, which makes it difficult for people with disabilities to experience their human rights within welfare reform. Reforms need to do a better job of making sure that discrimination is addressed. Although welfare reform now includes many people with disabilities, and many people with disabilities want to work, people with disabilities agreed that diversity was not valued within employment; rather, employers (and the public) held fears and negative perceptions about employing people with disabilities. In particular, the business community needs to recognize people with disabilities as members of a diverse workforce with their own skills. Efforts to increase the acceptance of disability within the workplace would help to promote another of the CRPD principles: full and effective participation in society. People with disabilities will not be able to be full and effective people with disabilities in society until there is a greater acceptance of their disabilities within the labor market. Morris (2006) argues that employment disadvantages are constructed not only by the individual's impairment, but also by structural and attitudinal barriers pertaining to workplaces and employment practices. Both structural and attitudinal barriers must be addressed before people with disabilities can have equal access to the labor market and experience their human rights in the process. This theme focuses primarily on attitudinal barriers within the economy and employers, and more structural barriers are presented in the sections that follow.

3. **Skills, capabilities and quotas**

People with disabilities made it clear that they wanted to find a job because of their skills and capabilities, not because they had a disability. That is, they were largely in opposition to quotas systems. This theme emphasizes a point made previously, that the fourth principle of the CRPD (respect for difference and acceptance of diversity) is not embedded

within the Australian labor market context; there is a need for employers to value people with disabilities as part of a diverse workforce, rather than employing them because they have to. Although quota systems have the potential to increase labor market participation of people with disabilities, it is an insufficient policy response due to broader negative perceptions of people with disabilities.

One approach to increasing labor market participation for people with disabilities is to implement a quota with the belief that exposing workplaces to disability would help change social attitudes. Employers must have a certain number or percentage of people with disabilities in their workforce or else they would be fined. Recently, some countries have begun crafting agreements with employers who will fulfill a part of the quota by offering programs for recruiting, training, and integrating workers with disabilities or adopting certain technological changes (International Labor Office, 2002). Quota systems often do not fully utilize the talents of qualified people with disabilities by placing them in low positions just to meet the quota requirements (Metts, 2000). In fact, quota schemes are counterproductive to the goal of equality for people with disabilities, so they have not been used in Scandinavia, and other nations, such as the UK, have abandoned quotas in favor of anti-discrimination (EIM Business and Policy Research, 2002). The OECD (2003) notes that quotas are not part of a rights-based approach. Rather, they are based on placing obligations on employers. Additionally, there have been some complaints that the scheme implies people with disabilities are a burden on employers (Floyd & Barrett, 2005).

Australia does not have any quota schemes in place, though affirmative action policies under the Equal Employment Opportunity have been debated and implemented in some areas

and sectors. Still, statutory requirements on the employment of people with disabilities do not exist in the private or public sectors. Governments in the state of New South Wales are required to submit a Equal Employment Opportunity action plan to promote diversity and many include initiatives for people with disabilities (Ronalds, 1990).

Although there are not quotas in place, some people with disabilities also thought that a quota system might help employees understand disability issues better: “If you force them to hire someone with a disability they might understand better” (Sue, female, age 19, physical disability). But there was an overall recognition that this was not the best system to promote full and equal participation in society. The CRPD does acknowledge that affirmative action programs can be a useful approach to encouraging employers to hire people with disabilities (Article 27, para. 1(h)). However, it also suggests that this should be done through incentives (whereas quotas are largely punitive) and that people with disabilities should be able to work in a market that is open and inclusive. As the principle on respect for difference implies, people with disabilities need to be valued in the labor market for their capabilities and skills. One person with a disability summed this up by stating, “[Quota systems are good] to an extent because it’s saying ‘you can work with people who don’t have a disability; you can do the same thing as them.’ But there shouldn’t be a limit on employing people with disability, you should just employ people for what they do” (Mark, male, age 20, physical disability). Another participant summarized a related concern, that people with disabilities would just be a token within the labor market:

You don’t want to get a job because they have to employ someone with a disability; you want to get a job because they genuinely see that you can be

skilled at that area of expertise. It's like winning a game when you know the other person let you. It's probably not the best feeling because it means they feel "you're an inadequate worker" but we have to give you the job (Quinn, female, age 20, physical disability).

Rather, the people with disabilities wanted to be hired because of their skills and capabilities. They recognized that they all had skills to offer and valued training that would allow them to build on their skills. At one of the focus groups each participant shared an industry they wanted to be involved in because of their skills or interests, which often related to their studies. Three of them explicitly noted something that they are studying in TAFE: "I would like to have a job, preferably in the design industry which is what I'm studying at TAFE" (Quinn, female, age 20, physical disability); "I want to teach Japanese; Japanese is what I'm studying at the moment" (Sue, female, age 19, physical disability); and "I want to be a professional landscaper...at the moment I'm doing a course at TAFE, just general horticulture, just to push me in the right direction so I can build my skill set" (Yuri, male, age 20, Asberger's).

However, people with disabilities did not think that this mattered to potential employers. Instead, the main skills that people with disabilities thought employers were looking in prospective employees were computer skills, customer service/communication skills, management skills, punctuality and enthusiasm for the job. One person noted: "They're looking for being confident, good presentation skills in terms of the dress code and also knowing a little bit about the company you're applying for and what they do. Basically having an enthusiasm for the job you're applying for" (Anne, female, age 26, physical and visual disabilities).

International directions for active workfare, such as the Welfare to Work reforms in Australia, have focused on supply-side measures designed to increase those skills, and many of those programs target assistance to socially excluded groups to provide soft and foundational skills, often through personal support and job search assistance (Horn, 2010). Job Services Australia performs this function by offering various levels of training and skills development to groups depending on an assessment of their labor market exclusion and social exclusion. Therefore, the skills training offered through Job Services Australia promotes human rights for people with disabilities by redressing structural inequalities in skill and education levels pertaining to social exclusion from society. In theory, these policies increase opportunities for people with disabilities to participate in the labor market (the fifth principle of the CRPD – equality of opportunity). However, the focus on soft/foundational skills does not allow most people with disabilities to showcase and develop the full range of their talents and capabilities.

Efforts to increase the skill of all people with disabilities will have no impact if there is not a corresponding shift in attitudes towards people with disabilities. Until employers are more willing to hire people with disabilities as part of a skilled and diverse workforce, there is unlikely to be any change in labor market participation rates for people with disabilities. Often it comes down to getting a chance to showcase that talent. Many people with disabilities reported that this was still an issue because people with disabilities were often the first to be dismissed during the interview process, especially in a tough economic climate, because of misperceptions about their skill levels and suitability for the job. “When I was looking for work I used to go to interview after interview, with 20 other guys in the room, I would be the best qualified for the job, and I would work out of there with no job at all, because of my disability” (Kurt, male, age 49,

physical disability).

Further to this, it is challenging for people with disabilities to gain the necessary experience for labor market participation. One respondent noted that:

[Lack of experience] was definitely a problem for me, not having worked before... this was a big barrier because people want to know why and there's an instant assumption that there's something wrong... It's hard when you need experience in past jobs and you don't have that to get a job, so it's kind of like a chicken and the egg thing where you can't get a job because you haven't had a job, it's a joke. I mean, how do people get into the workplace in the first place? (Gus, male, age 26, mental health).

A promising direction to ameliorate some of these barriers is when employment providers arrange for work experience or volunteer positions to give people with disabilities an edge in applying for a job, or turning that experience into a paid position. The people with disabilities had high hopes for this program: "I'm also doing work experience soon; I'm hoping to get a job out of my work experience" (Zack, male, age 21, physical disability). Work experience can serve as a facilitator of labor market opportunities, because it can be used to give people with disabilities additional skills and work familiarity that they can use to be more competitive in the labor market and increase the opportunities available to them.

Welfare to work programs that address barriers by provision of training and/or re-skilling specific to addressing individual "deficiencies" are insufficient. Such a focus overlooks the

interrelated cultural training that is necessary for employers (i.e. through cultural competency training in disability) and for individuals (i.e. self advocacy training to develop effective strategies to address negative perceptions and stigma). To ensure that active workfare programs promote equality of opportunity and labor market participation for people with disabilities, any training and skills component could be accompanied by training for society and employers. This necessitates a wider social recognition of the value of people with disabilities as workers with skills and capabilities that can be a contributing part of a diverse workforce.

4. **Responsibilities of citizens and government**

The Australian conception of mutual obligation implies that both people with disabilities and the government have responsibilities to one another. People with disabilities were clear that they thought the government could assist people with disabilities into employment. The discussions around this theme pointed out that the government had responsibilities to implement good policies and programs to support Welfare to Work. The people with disabilities did not argue with the goals of Welfare to Work and being subject to work requirements as long as the government created a context that allowed them to succeed.

People with disabilities recognized that they had both the right and a responsibility to work; however, they felt that they had additional barriers to contend with, which constrained their opportunities. They emphasized that the government has to give them a chance to succeed. They noted how the government places expectations on people to work, but there is no decent transport system in place for people with disabilities to get to work. Additionally, there is little financial incentive to move from benefits into the labor market due to pay discrepancy: “Maybe if we were getting paid properly we wouldn’t need to be on the pension or whatever” (Chris,

male, age withheld, visual disability). Even when they are employed, people with disabilities are paid less. For example, in 2009 the median gross personal income per week was \$767 for people without disabilities and only \$379 for people with disabilities (Australia Bureau of Statistics, 2011). The CRPD explicitly notes the importance of equal remuneration for people with disabilities (Article 27, para. 1(b)) as a critical indicator of human rights for people with disabilities.

People with disabilities expressed frustration that it was difficult to achieve equality under welfare reform. The neoliberal aspects of welfare reform stand out but it is difficult to argue that welfare reform promotes human rights. These discussions underscored tensions between human rights and neoliberal responsibilities and between policy discourse and policy practices. Many people with disabilities have mandated responsibilities to participate in the labor market as the result of neoliberal reforms, but human rights emphasize that accommodations and equality must be considered. Although the political discourse of rights and rights-based policy exists in the Australian welfare to work reforms, the disconnect with policy practices must be addressed; meaning that responsibilities in the labor market are not just for individuals, the government must take concurrent steps to ensure against discrimination, access, and equal treatment.

Macali (2006) notes that it is impossible to separate what can be expected of a job seeker from what a job seeker can expect from the government. She argues that this is a particular issue for people with disabilities because they typically have disadvantages such as lower levels of education/literacy and skills, and higher costs to live in a society, and these disadvantages can impact an individual's capacity to work or participate in the community. Moss (2001) identifies

two main reasons why it is inappropriate to tie benefits to mutual obligation: beneficiaries do not have a choice about entering into a contract to find employment; and the mutual obligation scheme is more punitive than mutual as it does not effectively encourage participation. Questions of equality of opportunity arise due to the emphasis placed on individuals following welfare reform, without corresponding attention to the role of Government.

One participant noted that the Government currently is not doing enough to meet its responsibilities:

I find that sometimes the responsibility the government puts on people like with the DSP is a little bit unfair in terms of saying ‘we’ll cut some of your pension...you’ve got to do this to get that...’ I can understand that the government can’t afford to give everyone always a hand out, but with people with disabilities I think that there has to be a fairer system and we should have an incentive for work (Hank, male, age 35, visual disability).

Still, most people with disabilities agreed that they should be expected to work assuming that the right systems and programs are in place. The first focus group included a number of people who were blind or visually impaired. The pension that they receive is assessed differently, allowing them to keep more of their income if they do find work and is not means tested, but people with disabilities said they were willing for more assessments on their pension if it meant that government would offer them more programming: “as long as there’s some assistance to get a job that is meaningful” (Erin, female, age 28, visual disability). More effective support and

incentives for labor market participation would make it fairer for the Government to implement systems of work responsibilities.

The main suggestions by the focus groups respondents for how government could assist people into employment centered on streamlining case management. The comments spanned the process of finding employment, including the application and completion of forms for services; job training and job skills to help them be more prepared in the labor market; and greater public awareness and media campaigns, where current employers could be used to discuss the benefits of employing people with disabilities. People with disabilities believed that these suggestions would help to equalize opportunities for their participation, not only in the labor market, but within employment services themselves. Access to these programs is foundational for many people with disabilities before they can enter the labor market, and the CRPD emphasizes the importance of equal access to such services (Article 27, para. 1(d)).

Still, the reforms to employment and income support policies for people with disabilities were perceived by respondents in this study to be somewhat effective in increasing opportunities for participation. The strategies they found to be effective in helping them transition from welfare to work centered around structural changes and supports, such as an increased range of support, a wider range of available jobs and more attention to how work impacts benefits. This individualistic approach is part of a neoliberal approach to policy reforms, but has some potential for improving equality of opportunity (a CRPD principle). However, where the government recognizes and commits to its responsibilities to offer adequate support and services, people with disabilities can participate in the labor market at a higher rate and experience their human rights within the created services, which are detailed in the next two subsections.

5. **Employment services and finding employment**

People with disabilities were frustrated by employment services because they did not feel that their needs were well understood. The difficulty finding jobs they wanted, lack of individual attention, and funding structures were specific areas of concern.

As the first section of this chapter noted, people with disabilities can receive services from mainstream employment service providers or from specialized disability employment service providers. The needs of people with disabilities are not well understood within mainstream employment services, and even disability employment services have trouble with some types of disabilities, notably deaf and hard of hearing or blind and visually impaired population (HREOC, 2005h). AIHW (2009) acknowledges that people with disabilities are less likely than the general population to get positive outcomes related to employment or training from mainstream employment services. Still, services are better than what existed before welfare reform and offer more supports. A focus group participant who had used mainstream services agreed, “They are good at what they do, I suppose, but not especially for people with disabilities” (Gus, male, age 26, mental health). The people with disabilities felt that there were some additional supports that service providers could help with, including transportation, guidance with disclosing a disability and discussing various employment programs and benefits to employers. They also noted that their service provider could play an important role in discussing accommodations and support in the employment process was critical. However, the reforms have removed notions of difference from employment services, which means that people with disabilities are less likely to receive the supports as a matter of rights. The emphasis on

“normalizing” individual behavior is part of the broader discourse of neoliberalism and many employment service providers are focused only on getting people into employment.

One of the roles of service providers is to help people with disabilities find open employment positions. Most of the people with disabilities who participated in these programs (both mainstream and disability specialist) said that they have access to a case manager for one hour every fortnight, and they are supposed to use their time together to identify and locate open employment opportunities. Many employment advisers will ring companies and inquire about employment positions. Sometimes an adviser can work with an employer to create a job for someone. However, people with disabilities expressed frustration with this process because their case manager was always being interrupted and was not able to focus on them or give them a full hour of assistance. Additionally, many disability employment programs offered job clubs, and the people with disabilities said that these clubs help to improve confidence because everybody worked together to find open opportunities, and they help each other write letters and prepare for employment. However, after a few weeks it becomes redundant and people are presented with the same limited opportunities. Without opportunities to obtain employment that people with disabilities want welfare reform can have little impact on their human rights. Emphasizing reform to the economy and business community is necessary before welfare reform can be effective, the right to employment does not mean much if there are not employment opportunities available.

People with disabilities who are using employment service providers reported that they primarily look for employment opportunities through computer and Internet, both with the service provider and on their own. Centrelink also maintains a central listing of employment

opportunities, and people with disabilities are encouraged to use SEEK (an electronic database of open jobs). Sometimes they also use newspapers, but it is primarily online. E-mail listservs are another important source of this information. The people with disabilities discussed strategies to use to find employment outside of the employment service providers. In particular, they thought it was important to be involved in things like access committees, different networks and e-mail/discussion lists as a way of being involved. Utilizing networks and connections was often a good way to find employment, particularly through friends or family.

One group of respondents felt like they had more chance of finding a job that they actually wanted on their own. They began to joke about how they were often directed to specific jobs, notably telemarketing or phone sales for people with visual impairments. People typically have very low expectations about the abilities of people with disabilities, and even though many of them are skilled in certain areas, those skills are not typically taken advantage of. This is another example of the absence of the CRPD principle on the respect for differences of people with disabilities in Australian welfare reform, this time directly within employment services.

People with disabilities who were in general employment programs also noted that their disabilities are typically ignored. In fact, some reported being advised by their service providers not to mention their disability when going through the employment process. However, the people with disabilities wanted to be accepted for having a disability, without having to hide or avoid discussing it with potential employers. “They need to recognize our disabilities, accept it first before they move on to the next step of finding us a job. Most of the time we’re advised not to say anything if we can get away with it” (Chris, male, age withheld, visual disability). This “shaming” of disability only further perpetuates the stigmatized view of disability. Compounding

this negative perception is a feeling that their advisor's did not take their abilities or education into account; and focused more on what they cannot do. They spoke about the phrase "beggars can't be choosers" – a phrase they felt was being applied to them - and they did not like that they were classified as beggars because they had disabilities.

The role of choice and autonomy (the first principle underpinning the CRPD) is important in employment services and the degree to which people thought they were able to exercise choice in guiding their employment goals varied. Many people with disabilities felt strongly that many providers were interested only in finding them a job, even if it was unskilled or with low pay. For people with visual impairments, the people with disabilities mentioned telemarketing and transcription as areas that they are encouraged to consider. Employment service providers are encouraged to get any job outcome as quickly as possible under reforms that have moved the system to case-based funding. Opportunities for people with disabilities to exercise choice and autonomy over future employment directions are severely constrained by the structures that are in place within employment services. AIHW (2009) acknowledges that there is a gap in data on whether those services to people with disabilities receive are ones that they chose or are effective.

Although transitioning to case based funding places more big focus on individual circumstance, for some people, notably people with intellectual and psychiatric disabilities, even the highest level of funding might be enough (HREOC, 2005h). The focus on employment outcomes was the key feature favored by the Howard Government (Carney & Ramia, 2002), but Chenoweth (2008) questions the use of outcomes because this does not necessarily mean a job that allows people to meet their needs. Allowing individual people with disabilities in

employment service programs to have more choices and autonomy regarding their labor market participation can be a facilitator for ensuring that they are able to obtain the employment outcomes *they* want and need. The change in funding structures is a challenge to this area of human rights. More research on the impact of this reform needs to be done, but the potential focus on outcomes implies that welfare reform works better for some people (those closest to the market/easiest to achieve outcomes for) than others. Thus, the principle of equality of opportunity applies not only to opportunities in the labor market, but also to opportunities within employment services.

6. **Getting involved with an employment service provider**

Finding an employment service provider to work with initially was another concern because of the perception of difficulty in the process and the administration of employment services. This includes some of the issues that people with disabilities had enrolling in programs, from the assessments they went through to interactions with employment service program staff and Centrelink, and detail on the implications of moving services to case-based funding.

Centrelink is the agency that processes the assessments that determine an individual's benefits and work requirements and then place the individual in an employment program. The assessments that they are put through appear to be directly related to the person doing the assessment. As one of the people with disabilities said, one of her assessments was much better than the others because "he seemed more genuinely interested in finding out what the problem was" (Quinn, female, age 20, physical disability). Others tried to put her in a program where the

person who was supposed to work with her had never worked with a person with a disability before and was not expecting that.

Between Centrelink and a service provider, some people with disabilities expressed frustration that they had “to tell the same story over and over” (Anne, female, age 26, physical and visual disabilities) because they did not have a single case worker and frequently work with new people. They preferred a system where a few people were assigned to a single case worker in that case worker met with them each time. Others did see the same advisor, every time, but were frustrated that they did not have time to devote to them. Since the reforms, the amount of one-on-one time has actually decreased; service providers say that they spend 40 per cent of their time doing administrative work following the rules under welfare reform (article in review).

While the original goals of Welfare to Work were to increase the labor market participation of people with disabilities, this has largely not translated into practice in terms of employment rates and benefit expenditures. People with disabilities experience difficulties finding providers who will work with them. Part of the reason is likely because the number of spaces in these programs for people receiving DSP is capped, while those who were moved onto other allowances are not. The original government strategy was to move the people assessed as able to work between 15 and 29 hours per week into employment, without many programs for people still on DSP. When the reform was introduced, it was estimated that 60,000 people over three years would be placed onto unemployment allowances rather than DSP (Human Rights and Equal Opportunity Commission, 2005g). The CRPD states that all people with disabilities should have equal access to employment services (Article 27), but Welfare to Work in Australia favors those people with disabilities who are “more capable” of neoliberal conceptions of work.

The 2010 welfare reforms attempted to address some of the critique from previous policy reforms, including removing the cap on the number of spaces available in Disability Employment Network. One person with a disability suggested that the reason it was so difficult to get into a employment provider was a concern for the government's employment statistics. One of the people with disabilities experienced difficulty being referred to a provider. The person in charge of assessment kept asking why he wanted to be in a program, and he told her he really wanted to work: "It came across that they basically didn't want another person to register with unemployment, for statistical reasons" (Chris, male, age withheld, visual disability). While removing the cap was an important step in increasing the availability of employment programs for people with disabilities, the respondents in this study noted that although spaces are uncapped, people with disabilities have to find the right employment provider to work with. AIHW (2011) shows that only 255.3 out of every 1000 potential service users in New South Wales were involved in employment services. While there could be many reasons for this, employment services are not meeting the needs of all people with disabilities who could be involved in them.

Most of people with disabilities discussed their experience of the intake process, which they perceived as ensuring that their goals are something that the providers can help with. This can cause several problems in meeting the rights of people with disabilities within a neoliberal discourse. One of these is "creaming," where service providers may be enticed to work with people who it is easy to find employment outcomes for, especially under the new case based funding model. Carney (2006a) notes, the services available to clients depend on providers' opinions on whether it is economical to help a beneficiary find employment. Job Network staff

indicated that the neoliberal focus on outcomes encourages this “creaming” and that the competitive nature of employment services was a negative about the system (Cook, 2008). It is important for a service provider to be as efficient as possible, which implies that they focus on those closest to the labor market. A system that rewards employment services for creaming does not embody any of the CRPD principles, most directly the principle that promotes equality of opportunity, because it restricts this only to the most “able” people with disabilities.

The Howard government argued that the competition produced by the JN would make it stronger and offer jobseekers greater choice among effective and efficient services. However choice has been limited because many jobseekers nominate a provider without room for them or don’t nominate one within 10 days, which meant that Centrelink referred them to one through an automated process (Cook, 2008).

The move to case-based funding that welfare reforms instituted is a concern for allowing all with disabilities equal access to employment services. The *Disability Employment Network Case Based Funding Model Evaluation Report* (DEWR, 2007) found that the move to case-based funding (CBF) is an improvement on the previous block grant funding scheme because 43 per cent of people with disabilities were able to achieve employment outcomes of 13 weeks and they received only 1.5 years of assistance (compared to two years of assistance under the old model). While case based funding can help to meet the needs of people receiving DSP, there are still challenges to focusing on outcomes, especially for people with complex or psychiatric and psychological disabilities (DEWR, 2007). Under CBF, payment structures are arranged around three areas: service fees, outcome fees (at 13 and 26 weeks and for a full outcome), and ongoing support fees. Fees are higher for those assessed as being more disadvantaged. Additional fees are

also available for placing a worker in an area of skills shortage or into a training course relating to the specific needs of a local labor market (DEEWR, 2008). This approach embodies neoliberal ideas, as policy emphasis on job outcomes (i.e. any job for those most easily placed), makes it harder to provide the supports and services that are necessary to work towards the outcomes. Together with uncapping the number of individuals eligible for services, service providers are expected to provide more initial services, and only receive more funding after obtaining benchmarks, which makes it difficult to meet the needs of people with disabilities with disabilities.

The government argues that this new funding approach allows for greater competition, increases flexibility, and focuses on outcomes rather than inputs (Mendes, 2008). However, HREOC (2005h) makes the argument that allocating funding on an individual basis is not appropriate for all people; for many, including people with intellectual and psychiatric disabilities, even the highest level of this funding is often not enough. The AIHW (2011) shows the funding for employment services grew between 2003-04 (\$374.7 million) and 2007-08 (\$546.9 million), but dropped in 2008-09 to \$540.7 million. Between 2003-04 and 2008-09, the level of expenditure per service user fell 24 per cent \$5,829 to \$4,960. This rate had stayed fairly constant until 2007-08 (\$6,082), and fell after that with the funding change.

Again, the focus that employment services place on obtaining employment outcomes for people with disabilities is limited. This was reflected in the discussions by the people with disabilities, with many people with disabilities sharing concerns that it was largely up to the service provider that they worked with in relation to how attentive they were to a person's wishes. The Welfare to Work reforms substantially increased the administrative load of service

providers, which means that service providers have less time to spend with individuals. Article 27 of the CRPD asserts that people with disabilities need “to have effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training” (para. 1(d)). Reducing the administrative burden and reforming the funding for employment services can help to ensure that all people with disabilities have equal access to these programs. These programs are concerned with competition and efficiency rather than human rights ideas like equal access. Again, the tension between human rights and neoliberal responsibilities limits equality of opportunity for people with disabilities.

7. **Information and communication**

People with disabilities were concerned about the information and communication they received about welfare reform and were frustrated that they did not better understand their responsibilities and how their benefits would be impacted with labor market participation. The availability of information on changes to employment and income supports policies, and the effectiveness in which the government translates policy rhetoric to practice at the grassroots level is a critical area of rights for people with disabilities. The CRPD emphasizes the importance of information in Articles 2, 9 and 21 and gives specific attention to ensuring that information is available in a variety of formats. Prior to Welfare to Work, the Australian Council of Social Services reported that less than six per cent of people receiving DSP were currently involved with an employment service provider, and most did not even know that these programs existed (ACOSS, 2005b). The people with disabilities who participated in focus groups for this research were aware of the employment service providers (due to targeted sampling in recruitment); however, many commented on the difficulty of obtaining information related to these programs.

In particular, Centrelink was perceived to be “difficult to work with”, because there was disconnect between the information provided by Centrelink, and the information provided by individual employment providers. While the use of employment services by people with disabilities increased 50 per cent between 2003-04 and 2008-09 (AIHW, 2011), there are still a significant number of people with disabilities who don’t receive these services. In 2008-09, there were 109,002 people with disabilities to access employment services funded by the CSTDA, 35,632 (32.7%) who lived in New South Wales. That report shows a need for more employment services as there were 247.1 service users per 1000 of the potential population in 2008-09 in Australian nationally, and 255.3 in New South Wales.

One participant (Anne, female, age 26, physical and visual disabilities) praised Centrelink for the information she received, and found that they were quick to offer alternative formats for the information that is sent out. This person frequently calls their disability services telephone line to receive specialized disability assistance, but she got into an employment service program, on her own. The availability of information and accessible communication is a key component of most disability rights legislation. Not providing accessible information is perceived as discrimination, and does not allow people with disabilities to achieve equality. Human Rights and Equal Opportunities Commission recognized the importance of this in Australia and produced a paper (1996), arguing for more accessible information and communication in Disability Standards as a result of the Disability Discrimination Act. People with disabilities suggest that having accessible information available, while necessary and important, is not enough. As a referral agency, they often have difficulty finding a provider to work with people or connecting them with the right resources. One of the people with disabilities reported that she

felt she was “getting the run around” and it left her “in tears” that Centrelink could not find her an employment program (Deb). She eventually found an employment program through a friend.

A barrier to effectively participating in welfare to work programs for people with disabilities is their lack of knowledge on disability policy and the programs available to them. This is part of a broader issue in the disability community, with many policies being *about* people with disabilities rather than developed *with* people with disabilities (Braddock & Parish, 2001; Garcia-Iriarte, Kramer, Kramer, & Hammel, 2008). Advocacy groups of people with these abilities were instrumental in the development of the CRPD, but they are less involved in domestic policy creation, including welfare to work. Many organizations produced responses to the 2005 Welfare to Work reforms (HREOC, 2005h summarizes many of these), but they only had a short period to respond to the proposed changes, and this does not mean that individuals are aware of them. Only a few of the focus group people with disabilities could describe what the welfare to work reforms entailed, despite these policies having a direct impact on their livelihood. While information may be available, usually in accessible formats, it largely requires an individual to seek out this information in order to learn about the programs available to them.

One couple that participated in the focus group noted that they each receive \$50 less each per fortnight from their paychecks, although they were still receiving public housing, and only worked on supported wage. The changes also impacted their housing allowances, though, because the work they lost \$180 per fortnight. People with disabilities need better information so they understand how working will impact them.

People with disabilities understood that their DSP would be affected if they go back to work, but there was little understanding of exactly how. Whitehead (2010) argues there are

significant disincentives to moving from welfare to work, including loss of benefits and loss of access to a range of entitlements which are available for people in receipt of disability benefits. This was echoed by one participant, who felt informed and educated on the reforms. This participant believed that most people with disabilities have no incentive to work more than 15 hours because they would lose their benefits, concession card and eligibility to other supports. He also noted that requiring people to work less than 15 hours allowed them to pay less taxes, and get more benefits and be less productive, which made him ask, “How is this good for the economy?” (Frank). He said that he tried to ask people in government this but did not get an answer, revealing more tensions in disability policy practice. Another participant (Anne, female, age 26, physical and visual disabilities) thought it would help if they are allowed to work 25 to 30 hours before their benefits were impacted.

Access to information is a critical area for the future. The CRPD states that governments have a responsibility to provide accessible information to people with disabilities on services available to them (Article 4). This information is fundamental to human rights, especially within a neoliberal context. People with disabilities need to understand policy reform and how it will impact them before they can achieve equality of opportunity. Understanding how their benefits are impacted is essential to the choice on whether or not to pursue labor market participation, and to what extent. People with disabilities have a general understanding that they now have responsibilities to work, highlighting that neoliberalism has been entrenched into understandings of welfare on a broad basis, but before they can participate on an equal basis and experience their human rights within those programs, it is critical that they have adequate information and communication about reforms that impact their daily lives.

C. Conclusion

This chapter has detailed the policy context for people with disabilities following welfare reform in Australia. The 2005 Welfare to Work reforms, restricted eligibility for DSP to only people with disabilities who were assessed as able to work less than 15 hours per week. The others are moved onto Newstart Allowance, which is associated with work requirements. In Australia people are being recommodified, so that their ability to meet their needs is dependent upon participation in the market. The recent reforms to DSP make this concept relevant to people with disabilities. Discussions about the obligation of the state to protect the rights of poor and disadvantaged populations have been pushed to the side, so that welfare reform is about aligning the welfare recipients with the free market (Mendes, 2008).

The chapter identified seven themes that emerged from focus groups that were conducted in Sydney in July and August of 2010. These themes are:

- *International human rights and national antidiscrimination*, which emphasized that, while legislation to protect rights may exist, there are significant challenges to ensuring that the rhetoric of rights is put into practice;
- *The economy and employers*, which focused on the need for a change in culture in the economy, and especially among employers, so that they view people with disabilities as potential employees with skills and capabilities;
- *Skills, capabilities and quotas*, which reiterated that people with disabilities recognized they had skills and wanted work where they could take advantage of those skills and not just be given a token job;

- *Responsibilities of citizens and government*, which pointed out that, if the government was going to place work requirements on people with disabilities, the government had responsibilities of its own to ensure that policies and programs were in place to allow people to meet those requirements;
- *Employment services and finding employment*, which highlighted the problems that many people with disabilities had finding appropriate employment, because of the lack of choice and autonomy within employment services and the need for employment services to achieve outcomes as quickly as possible;
- *Getting involved with a service provider*, which revealed that the move to case-based funding and the focus on outcomes made it difficult for people with disabilities to find the right provider to work with; and
- *Information and communication*, which showed the difficulties that people with disabilities had obtaining and understanding information related to welfare to work and other employment policies.

Like other OECD nations, the Australian government is facing the complex challenge of balancing free market economies with state regulated policies. While ideological aspirations and political rhetoric of human rights and social justice are a worthy goal in principle, they are not enough to increase labor market opportunities. There are a number of structural and cultural issues that go beyond the scope and reach of welfare to work legislation and policy. To support and facilitate workforce transitions over a significant time period, policymakers, employment service providers and employers need to understand the full extent of the barriers that people with disabilities face. Factors such as employer's attitudes, economic conditions, availability of

workplace accommodations, and opportunities for prior employment and training are all part of the broader context that must be accounted for when reforming disability policies. Although welfare reform legislation has put some programs into place to address the structural disadvantage people with disabilities face, until there is a greater acceptance of and desire for disability to be represented in the workforce, those policies will have little effect. As the OECD (2009) argues in the Sickness, Disability and Work policy forum, moving people with disabilities off of welfare and into employment necessitates a culture of inclusion, with a dual focus on short-term active policy interventions and long-term structural reform. Increased labor market participation will be impossible for people with disabilities to obtain without a simultaneous focus on both cultural and structural factors in the Australian labor market.

Welfare reform has been very one-dimensional as it focuses on returning people to work. Carney (2008) argues that this approach has increased the economic disincentives for people to seek work, impacts vulnerable populations disproportionately, have not shown that they can move people into lasting labor positions, and are ethically problematic because of their emphasis on blaming the victim. The recent reforms in Australia do not pay enough attention to education and skills development programs, limiting the activity agreements that beneficiaries agree to (Carney, 2007b). Australia does have a few demand-side policies, such as subsidies for employers, but they are not emphasized (Carney, 2008). Others concur: Cook et al. (2008) suggest that persistent unemployment in Australia is more of a demand-side issue than it is a supply-side issue. Still, neoliberal reform in Australia has three main components: competition (through JSA), individualization (through activity agreements), and authoritarianism (through breaching and other penalties) (Carney, 2008).

Neoliberalism has had a major influence on disability employment services and eligibility for disability benefits in Australia. People with disabilities are encouraged to be active in the labor market rather than enroll in disability benefits. The emphasis on individual skills training and activation (a neoliberal trend) will remain ineffective in moving people from income support to employment unless more attention is given to wider labor market considerations. In order for people with disabilities to have equal opportunities in the labor market and experience the human rights that the CRPD envisions, the government could recognize its responsibility to create an environment in which welfare to work reforms can be successful: increasing the labor market participation of people with disabilities, reducing welfare expenditures, and improving the human rights experiences of people with disabilities.

While international human rights have advanced social conditions for people with disabilities in some policy domains, increased policy commitments to neoliberalism in both discourse and practice have conversely eroded and/or constrained the implementation international disability rights at the national level. Increased attention to the human rights approach and the principles underpinning the CRPD will help to increase labor market participation for people with disabilities in Australia. Throughout the analysis contained in this chapter, the principles were used to highlight specific areas related to welfare reform that Australia could address so that people with disabilities can increase their labor market participation.

The next chapter focuses on welfare reform in the United Kingdom, and the last chapter compares this one with the corresponding chapters on the United States and the United Kingdom. It will explore common and different experiences of human rights for people with

disabilities under neoliberal welfare reform. The chapter highlights best practices in the countries and offers lessons for each can learn from others.

VI. The United Kingdom¹⁵

Prime Minister David Cameron and the Conservative/Liberal Democrat coalition (Con-Dem) government that assumed power in the summer of 2010 inherited a social context and labor market characterized by the marginalization of many people with disabilities¹⁶ from employment, with a high rate of disability benefit recipients. As Chapter 2 discussed, the new government is operating in an international and national environment that has seen significant reforms and trends in two directions: the development of a rights-based approach to disability and the growing influence of neoliberalism on economies and policy. This chapter focuses on welfare reform in the United Kingdom (UK), specifically the Pathways to Work program and the Employment and Support Allowance, to explore the experiences of people with disabilities related to the tensions between the neoliberal influences on policy and human rights.

Both rights for people with disabilities and neoliberalism have received increased attention in the UK in recent decades. In 1995, the United Kingdom adopted the Disability Discrimination Act (DDA) and in 2009 the government ratified the United Nations Convention on the Rights of Persons with Disabilities (CRPD) and its Optional Protocol. Over the same period, New Labour governments in the UK implemented a series reforms designed to move beneficiaries, including people with disabilities, into the labor market. The “New Deal” family of programs formed the core of these initiatives, and in 2007 the New Deal for Disabled People was incorporated into Pathways to Work. Shortly following this, the UK introduced a new income

¹⁵ Condensed versions of parts of this chapter have been submitted for publication (journal withheld) under: Owen, R., Parker Harris, S., & Priestley, M. ““No rights without responsibilities’: disability rights and neoliberal reform under New Labour”.

¹⁶ Although the preferred term in the United Kingdom is “disabled people,” which emphasizes the social oppression they face as a group, this dissertation is using people with disabilities, which is the preferred terminology in the United States, where the author is completing a PhD.

benefit program, the Employment and Support Allowance, which places labor market obligations on people with disabilities according to their work capabilities. Ratifying the CRPD means the UK should ensure that the eight principles that underpin the CRPD are embodied in national legislation. This chapter combines policy analysis with empirical evidence collected from focus groups with people with disabilities in Leeds in May and June of 2010 (the policy analysis is specific to the policy that was in place during this time) to assess the extent to which welfare to work policy for people with disabilities is consistent with the CRPD. This chapter is divided into two parts. The first section details the national context and describes the city of Leeds as the setting for the research. This includes a discussion of the labor market participation of people with disabilities and a review of the policies that were in place for people with disability is with regard to employment and income. It provides an overview of disability discrimination legislation, welfare to work policies and programs, and income benefit programs as defined by national legislation and implemented in Leeds. The first part of this chapter addresses this dissertation's first research question:

- What policies/programs have been implemented regarding welfare to work for people with disabilities in the United Kingdom?

The second part of this chapter focuses on the qualitative data obtained during the focus groups. The results are organized into 7 themes: (i) international and national rights; (ii) welfare reform; (iii) rights and responsibilities under welfare reform; (iv) policy implementation; (v) policy communication; (vi) employer attitudes on capabilities; and (vii) access and adjustments. The aim of this section is to address the following additional research questions:

- Under which conditions is the implementation of welfare to work policies for people with disabilities in the United Kingdom consistent with a human rights approach?
- How do people with disabilities experience welfare to work programs/policies in the United Kingdom, and is that experience consistent with national implementation and rhetoric?
- Which aspects of policy implementation and the overall policy context in the United Kingdom are useful for promoting the human rights approach?

In the conclusion of this chapter, it is argued that the emphasis on supply-side policies cannot be effective without a corresponding focus on demand-side policies and increasing opportunities for people with disabilities. While the Con-Dems intend to replace Pathways to Work with a new program, the experiences of people with disabilities who have used past programs remain important. This chapter provides insight into policy and programs that is useful for future policy debates about ensuring that national policy is consistent with international human rights standards for people with disabilities, namely the CRPD.

A. **National Context**

1. **Rights and antidiscrimination**

People with disabilities in the United Kingdom are protected from discrimination by the Disability Discrimination Act (DDA), which was passed in 1995 and amended several times, notably in 2005. The DDA protected people with disabilities from discrimination in employment (among other areas such as public premises, education and transport) by prohibiting less favorable treatment (e.g. legislating equal treatment) and requiring employers to provide “reasonable adjustments” as accommodations for employees with disabilities. Making reasonable

adjustments was dependent on the benefit that an adjustment would have on the employee's work involvement and the resources available to the employer. If an employer did not make adjustments without justification this constituted discrimination (Meager & Hurstfield, 2005). The 2005 amendments required public bodies to promote the equality of people with disabilities (Baldwin, 2006; Fox, 2007). Under the Public Equality Duty, public approaches to disability were to be proactive and mainstreamed (Fox, 2007). This was also contained in the 2006 iteration of the Equality Act¹⁷, which established the Equality and Human Rights Commission, a body that advocates for, reports on, and advises on human rights and equality concerns. This Commission handles cases for a variety of marginalized groups, and replaced the Disability Rights Commission on 1 October 2007.

The DDA defined disability as someone with “a physical or mental impairment which has a substantial and long-term adverse affect on his/her ability to carry out normal day-to-day activities” (Disability Discrimination Act, 1995, part 1, section 1). This definition was regarded as complex and difficult to interpret, although most people who claimed Incapacity Benefits qualified as a person with a disability under the DDA (Fox, 2007). The DDA relied on the opinions of medical experts to determine disability, thus aligning the Act with the medical/individual model of disability. It reinforced individualism by providing a legal mechanism based on an individual having to prove a case retroactively (Warren, 2005). If an

¹⁷ The DDA was replaced by the Equality Act 2010 on 1 October 2010. The Equality Act consolidates legislation pertaining to a number of protected classes (age, disability, gender reassignment, marriage or civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation) into a single piece of legislation that prohibits discrimination and promotes equality. Because fieldwork in the UK was completed prior to the enactment of this legislation, this dissertation focuses on DDA.

individual had a complaint against an employer, the majority of cases were settled without a tribunal hearing, and when the case went to a tribunal, success rates for people with disabilities were low, between 16 and 20 per cent (Meager & Hurstfield, 2005). Under this system, business interests often prevailed against individual rights.

Overall, the DDA had little positive impact on the experiences of people with disabilities as they sought employment (Bell & Heitmuller, 2009). The unemployment rate was still high and discrimination claims were difficult to win, leading to the conclusion that this legislative intervention did little to relieve the disadvantages that people with disabilities face in the labor market (Meager & Hurstfield, 2005). In general, employers, especially smaller ones (who were originally exempt from DDA employment provisions), had poor knowledge about the DDA and did not have a good understanding of their obligations under the Act (Roberts, et al., 2004; Thornton, 2003). Compounding this was the concern of the Disability Rights Commission that agencies, including Jobcentre Plus, did not promote awareness of good practices under the DDA (Goodley & Norouzi, 2005). Bell and Heitmuller (2009) argued that unless the DDA was fully enforced, employment rates for people with disabilities would go down rather than up. The reasons for this included low awareness of the Act, the difficulty of litigation regarding disability discrimination and because the Act required employers to make reasonable adjustments. One of the main limitations of the DDA, and other national antidiscrimination legislation, was that it focused on rights like reasonable adjustments, without giving attention to the supports available to achieve them. For instance, Access to Work is a program that helps to finance reasonable adjustments, but it is separate from that DDA and awareness of the program is low. This will be discussed in more detail in a later section of this chapter.

In addition to having domestic antidiscrimination legislation, the United Kingdom is also a party to international human rights treaties, including those for people with disabilities. The United Kingdom ratified the United Nations Convention on the Rights of Persons with Disabilities in June 2009, signifying their commitment to the human rights of people with disabilities at a broad level. Ratifying the CRPD means that the United Kingdom has the legal obligation to implement the Convention and implement changes to domestic legislation that align with the underlying principles (Lord & Stein, 2008; Melish & Perlin, 2007). New Labour's mantra "no rights without responsibilities" guided its approach to welfare benefits and creates an interesting case study of the tension between neoliberal welfare reform and human rights for people with disabilities, which is developed in the rest of this chapter (for a deeper understanding of how New Labour has used this phrase across a range of social policies, see Dwyer, 2004; Fitzpatrick, 2002).

In 2007, the Disability Rights Commission (now Equality and Human Rights Commission) developed a strategy document, *Disability 2020*, that suggested reforms that were needed in order to achieve full and equal citizenship for people with disabilities by the year 2020. *Disability 2020*, was based in social justice, and recognized that the UK had more to do before human rights could be fully achieved. The plan asserted that policy goals could not do much to improve the situation for people with disabilities without a shift in attitudes and culture and better linkages between policy domains. For instance, one of the overall goals of policy reform was to get the overall employment rate in the United Kingdom up to 80 per cent, as well as move one million people off of Incapacity Benefit (Fox, 2007; Pillai, et al., 2007). The government planned to use welfare to work and restrict benefit eligibility in order to meet these

goals. *Disability 2020* argued that it was also necessary to emphasize education and skills development and deliver employment services in an individualized and flexible manner. Thus, before the UK ratified the CRPD, this report highlighted some gaps in the policy and encouraged policy directions that were consistent with human rights principles.

The UK released a draft report (Office for Disability Issues, 2011) on the implementation of the Convention and emphasized that the Equality Act (see footnote 17) protects people with disabilities from discrimination in employment, particularly that it requires reasonable adjustments to be made when needed. In particular, Access to Work was highlighted as an example of how the government assists people with disabilities with the additional costs they face related to work or to assist employers with making reasonable adjustments. In addition, the report points to Work Choice and the new Work Programme as examples of how they are offering more choice to people with disabilities about finding employment. The latter is the program that replaces Pathways to Work, which is the focus of this chapter.¹⁸ The government also noted the need for more employer involvement, which they are trying to promote through convening a Steering Group on the topic. The first task of the group was to compile a “Clearkit” of practical advice and best practices that employers can use to make reasonable adjustments and make it available online. The report placed additional emphasis on Disability Living Allowance (DLA) and Attendance Allowance as the primary programs to support people with disabilities with disability-specific income. In 2013-14, DLA is scheduled to be replaced with a new program called Personal Independence Payment, which will be refocused on those who need the most support, although “essential support” will continued to be provided to everyone. While the

¹⁸ Details on the implementation of this program are still emerging, and it is too soon to tell if/how the experiences of participants in the program will differ from Pathways to Work.

report does not mention welfare to work, it does discuss many of the programs involved, but only in very general terms. There is no mention in the report on how policies and programs designed to promote human rights are put into practice or the experiences of people with disabilities within them. This chapter critically details those programs with explicit emphasis on personal experience.

2. **People with disabilities, employment and welfare benefits: a snapshot**

The low labor market participation of people with disabilities is a significant problem in the UK, as is the high spending on income benefits because of disability, though, as Chapter 2 notes, they are slightly better than in the United States and Australia. There are 10 million people with disabilities in the UK and the Life Opportunities Survey (Office for National Statistics, 2010b) shows that 29 per cent of adults have an impairment and 26 per cent of adults in Great Britain have a disability as defined by the DDA. A large proportion of these are older people past the retirement age (Grewal, Joy, Lewis, Swales, & Woodfield, 2002; Priestley, 2000), but the Office for National Statistics' Labour Force Survey (Office for National Statistics, 2009b) provides a snapshot of the remaining 7 million (18.6% of the population) people of working age who have a disability. 78 per cent of people with disabilities are inactive in the labor market (Shima, Zólyomi, & Zaidi, 2008). Less than half (48.4% - 34.3% in full-time employment and 14% in part-time employment) of people with disabilities are employed, compared to 79.6 per cent (61.3% in full-time employment and 18.3% in part-time employment) of people without disabilities; so 28.9 per cent of disability employment is part-time, compared to 23 per cent of employment for the rest of the population (Office for Disability Issues, 2008; Office for National Statistics, 2009b). The Life Opportunities Survey (Office for National

Statistics, 2010b) shows that people with impairments who were employed in Great Britain experienced limitations in the amount or type of work they did more often than others (33% to 18%). The top barriers to increased work that people with impairments who were in the labor market encountered were family responsibilities (29%) and not having enough work opportunities (18%). The enablers that they identified were modified work schedules (22%) and tax credits (11%).

The Life Opportunities Survey (Office for National Statistics, 2010b) also showed that people with impairments who were not employed in Great Britain identified the lack of employment opportunities as their primary barrier, though other people were just as likely to identify this (51% of each population of unemployed individuals identified not having enough opportunities is a barrier to employment). The second barrier that people with impairments identified was difficulty with transportation (31%). They identified the same enablers as people with impairments who were employed; they felt that modified work schedules (36%) and additional tax credits (21%) would enable them to work. For people who were not economically active, the barriers to employment that they identified included family responsibilities (23%, which is much lower than for people without impairments who were not economically active - 68% of this population said that this was why they did not participate in the market) and the lack of confidence or anxiety (19% compared to only 4% of other inactive individuals). The inactive population also identified modified work schedules (26%) as an enabler of employment, along with accessing equipment needed because of an impairment or disability (19%).

People with disabilities also face disadvantages in their income compared to the rest of the population, both in terms of hourly pay (Office for National Statistics, 2009b) and average

income levels (OECD, 2007b). Households that include a person with an impairment in Great Britain were less likely to be able to afford a weeklong holiday (32% to 20%) or unexpected expense greater than £500 (38% to 26%) and had more difficulty with loan repayments (27% to 15%) compared to other households.

Reasons for the low status of people with disabilities in the labor market include that they have low levels of qualifications (Office for National Statistics, 2009b; Thornton, 2003), precarious work positions (Crisp, 2008), and that work and employment has a very narrow view as consisting of wage labor only (Warren, 2005) and focuses on the maximization of profit and competition between individuals (Barnes & Roulstone, 2005).

Thornton (2003) noted similar findings regarding the disadvantage in the labor market that people with disabilities face compared to people without disabilities, at the time citing the employment rate for the general population as 85 per cent, while only 40 to 50 per cent of people with disabilities were employed, which shows little improvement over the past few years. Women are further marginalized and disadvantaged in contemporary society. Furthermore, people with disabilities are more likely than people without disabilities to be living in poverty in the United Kingdom, are twice as likely to live in households with low incomes, are more likely to live in households that do not have a worker in the encounter higher cost of living, including the extra cost associated with care and transportation (Burchardt, 2004; Smith, et al., 2004; Thornton, 2005a). The average gross hourly pay for a person with a disability is £11.08 and £12.30 for a person without a disability (Office for National Statistics, 2009b) and income levels of people with disabilities are 25 per cent lower than the national average (OECD, 2007b). Conversely, impoverished people are more likely to become disabled (Burchardt, 2004).

Berthoud (2008) uses the term “disability employment penalties” to describe his findings that people with disabilities consistently have lower employment probabilities than people without disabilities with similar characteristics. This is true across a range of characteristics and levels of impairment. Even when other characteristics are held constant so that people with disabilities are compared to similar individuals without disabilities, he argues that there is still a 40 per cent “penalty” for people with disabilities.

People with disabilities in the United Kingdom are not as qualified for employment as people without disabilities (Thornton, 2003). 23 per cent of people with disabilities have no educational qualifications, compared to only 9 per cent of people without disabilities (Office for National Statistics, 2009b). Recent years have seen a decrease in the demand for unskilled workers, further reducing opportunities for people with disabilities to participate in the labor market without specialized training or education. Training programs, particularly in the information technology field, could help people with disabilities to become more employable (Pillai, et al., 2007), especially since the nature of work is changing as employment requires skill updates, flexibility, and competition. This change in the workforce in late modernity/capitalism highlights the fact that many people with disabilities need support and training in order to participate.

British social policy’s traditional view of work is very narrow; work is considered to be wage labor only (Warren, 2005). Work has been focused on the maximization of profit and competition between individuals (Barnes & Roulstone, 2005). Kate Stanley (2005) uses the phrase “the missing million” referred to the over one million people with disabilities want to work but are not working in the United Kingdom. She cites a Department for Social Security

Green Paper that created the mantra of “work for those who can, security for those who cannot” that summarized New Labour’s approach to welfare reform. She classifies people with disabilities as the Achilles’ heel of the welfare to work agenda because of the vast number of benefit claimants who have disabilities and the need to provide employment services for a large majority of them in order to meet to the statistical goals that have been set.

There is some evidence that suggests that the United Kingdom is moving towards greater equality between people with disabilities and people without disabilities in the labor market. Recent statistics show a 12 per cent increase in the employment rate of people with disabilities, a 14 per cent decrease in the unemployment rate and a 4 per cent decrease in the inactive population of people with disabilities. Shima et al. (2008) use this evidence to assert that “the UK is a country with a satisfactory scenario concerning the integration of people with disabilities into the labor market” (p. 6). The numbers suggest that the policies in place are moving in the right direction, and this chapter shows what those numbers mean in practice to the experience of people with disabilities.

3. **The local setting: Leeds**

Leeds is a modern city, located north-northwest of London. The city has a strong industrial foundation, as well as being a financial and business center of the country. There were 787,700 people living in Leeds in June 2009, 49.3 per cent of whom were male. The majority of the population identified as white (86.8%) followed by Asian or Asian British (7%) (Office for National Statistics, 2009a). In 2001, the average age was 37.64, compared to 38.6 for England (Office for National Statistics, 2001). The 2001 Census showed that 128,500 people (18% of the

population) in Leeds had a disability, which is similar to the national ratio of one in six (Leeds Involvement Project, 2009).

Leeds is part of a region known as “Yorkshire and the Humber,” which had an employment rate of 70.5 per cent for the working age population, which was less than average in the England (72%). The unemployment rate in Yorkshire and the Humber was the highest in England at 9.7 per cent according to data that refers to the January through March 2010. Of all the regions in England, they had the second lowest rate of productivity, accounting for 7 per cent of the gross value added in the UK. The median price for a dwelling was much lower in the region than in England as a whole. In 2008-09, the weekly gross household income averaged £625, compared to £703 as the average in the United Kingdom (Office for National Statistics, 2010c). As of November 2010, 5.7 per cent of the working age population of Leeds claimed the Employment and Support Allowance or Incapacity Benefit, which was less than in the Yorkshire and the Humber region (6.7%) and Great Britain (6.6%) (Office for National Statistics, 2010a).

In Leeds, Pathways to Work is contracted to private organizations, including A4E, a large international business that touts itself as a leader in welfare to work programs. The private sector has a large role in employment services within welfare to work in the United Kingdom. Globally, privatizing employment services to the private sector is indicative of the neoliberal influence on welfare reform.

4. **The political context: New Labour**

Neoliberal approaches have been a central feature of politics in the United Kingdom since the conservative governments of Margaret Thatcher in the late 1979. More recently, the influence of neoliberalism has been continued since Tony Blair became the Prime

Minister of the United Kingdom in 1997. His New Labour party embarked upon a program of welfare reform and performed a wide ranging review of most social programs that exceeded the extent of similar reforms in the United States as a result of the 1996 Personal Responsibility and Work Opportunity Reconciliation Act. The main goals of the reforms in the United Kingdom were to reduce the incidence of poverty and promote employment. Reducing social divisions and inequalities by adopting policies that would help to “make work pay” were at the heart of the reforms and facilitated broad support for the reforms. Focusing on Social Security reform allowed New Labour to appeal to traditional Labour voters by focusing on poverty and to more conservative voters by emphasizing the responsibility to participate in the labor market (Sheldrick, 2000).

New Labour introduced a series of active labor market programs, labeled “New Deals”, to address specific groups of people (Evans & Millar, 2006). Chancellor Gordon Brown (later Prime Minister from 2007-2010) was a vocal proponent of these policy programs (Sheldrick, 2000). One of the challenges of the New Deals was to have an impact on groups that are regarded as the hardest to serve, including older people, lone parents and people with disabilities. While these programs were meant to increase social inclusion, they have increased the marginalization of people who are not in the labor market (Baldwin, 2006). New Labour government policy was underpinned by notions that work is the best way to increase the social inclusion of people with disabilities and embraces privatizing services. Anthony Giddens, an instrumental figure in the development of New Labour policy, regarded the public-private mix as one of the key features of the Third Way of governance (Powell, 2008). The Third Way mixed moralism with neoliberal economics and stressed paid employment as the best way to get out of

poverty; a strong work ethic was important (Grover, 2007). The Third Way tried to take a “centrist” political position and provide a bridge between the political left and the political right. It fully endorsed the free market approach to economics but recognized that the government still has a large role in managing many aspects of society. This approach is also seen in other liberal nations, such as the United States and Australia.

The employment policy of the New Labour government stressed activation and recommodification, meaning that participation in the labor market was necessary to meet the needs of individuals. Those needs were commodified within the market (Powell, 2008). The position of people with disabilities in the labor market was a social policy domain that received increased attention from the New Labour government, particularly with an emphasis on “welfare through work” and “work-based welfare,” to use Giddens’ terminology (1998, in Roulstone & Barnes, 2005a). Such policy interventions typically focus on supply side measures, which reinforces the medical model of disability (Chapman-King, 2007; Oliver, 1990). Supply-side refers to policies and programs that are directed at individuals in the labor force to make them more attractive to employers (i.e. improving the supply of labor) (Barnes, 1992). One of the central features of the New Deal programs was the focus on the “job-readiness” of participants so that they are prepared to supply quality labor to the market when needed (Sheldrick, 2000). People with disabilities, and others receiving benefits, were considered to have an inherent flaws that need to be corrected to make them suitable for the labor market, without regard for issues in the market itself, including whether there are enough positions available for all those who are looking for a job. Supply-side measures stressed the ability of an individual to be “job-ready” and normalized to the needs of the market; the focus on individual characteristics is central to

individual responsibilities that are at the heart of neoliberalism. Jessop (2003) notes that these features underscore the neoliberal approach that is inherent in New Labour welfare reform.

The reliance on supply-side measures was a critical piece of the Government's (New Labour) goal to employ more people with disabilities, a goal that cannot be achieved unless adequate employment and support services are available (Riddell & Banks, 2005). Historically, the government has used systems of "carrots and sticks" to encourage people with disabilities to enter the labor market, but has refrained from intervening in the labor market or workplaces directly. As the UK continues to become more post-industrial, the changing market may become an even greater problem for people with disabilities, because more technical employment is related to a higher incidence of disability. Barnes (2003) argues that supply-side measures in this context reinforce the idea that people with disabilities are not equal to their peers without disabilities.

In a 2008 white paper entitled "Raising Expectations and Increasing Support" (Department for Work and Pensions, 2008), the Government summarized its recent approach to welfare reform as consisting of three parts: deepening the obligation to work; widening the obligation to work; and the idea that nobody should be left behind. By introducing New Deal programs and creating Jobcentres to merge benefit and employment services, the Government has deepened the obligation to work. The New Deal for Disabled People and Pathways to Work were piloted and then nationally expanded, and Incapacity Benefits became the Employment and Support Allowance, which has widened that obligation to include more groups. The third part of this approach - that no one should be left behind - reflects the belief that obligations should be applied to everyone. Under the Government's view, the welfare state should be one where

everybody is looking for or preparing for employment (Department for Work and Pensions, 2008). The White Paper goes on to argue that, despite the tight economic climate, it was the best time to move forward with welfare reform and avoid the past mistakes that encouraged long-term dependency on benefits (i.e. allowing more people onto benefits because of the economy). The argument was that focusing on capabilities and increasing skills will help to make everyone more competitive when the economy improves. While this may be true, without concurrent emphasis on reforming the market itself and creating more employment opportunities in a strong economy, it is unlikely that everyone encouraged to move from benefits and into the market will be able to find a position, especially one of good quality that takes advantage of each individual's unique skills and promotes their human right to choose. A strong system of income supports is necessary for those people for whom opportunities are not available.

Clarke (2005) argues that New Labour essentially abandoned the individual. The three forces it stresses – activation, empowerment and responsibility – amount to rhetoric that New Labour used to abandon the role of the state and leave individuals to meet their needs through the market. In this sense, activation was about preparing people for the market so they can be self-sufficient; empowerment was used to remove conceptions of welfare and the public sector; and responsibility referred to the government reducing its regulatory and safeguarding roles. The perspectives of people with disabilities that are presented in the second half of this chapter are critical for assessing how well individuals are able to experience their human rights in this context.

Welfare reform centers on the link between rights and responsibilities and making the right to benefits conditional on labor market participation. Conditionality has been a feature of

British welfare policy throughout history (e.g. through contingent universality, contributions to social assistance), but it has become a much more central feature of contemporary social policy in the UK (Dwyer, 2004). The policies that pertain to labor market participation for people with disabilities that were in place in the UK during the fieldwork are detailed in the next subsection.

5. **The policy context**

The participation of people with disabilities in the labor market is influenced by a number of policy domains. While a completely comprehensive review of the national policy context is outside of the scope of this dissertation, the following sections discuss contemporary welfare reforms and the available disability benefits, along with national employment policies, specifically the welfare to work policies of Pathways to Work and the Employment and Support Allowance. Some historical content is provided, though the focus is on the recent reforms that created the policy context that people with disabilities in the United Kingdom experienced during fieldwork (up to May and June 2010). The experiences of people with disabilities regarding these programs are the focus of a later section.

a. **Welfare and benefits policies**

i. **History**

In the United Kingdom, the history of welfare and income maintenance/social security programs is rooted in the English Poor Laws of 1601 and 1834 and further developed by the Beveridge Settlement. Like most social policies of the time welfare has been based around the assumption of a male, able-bodied breadwinner working full-time (Warren, 2005). The employment rights of people with disabilities were not given a high priority within the system, and people with disabilities were eligible for benefits rather than encouraged

to work. Stone (1984) notes that they were privileged above other unemployed people because people with disabilities wanted to work, but could not. Borsay (2005) identifies three problems with the Beveridge Settlement: (i) benefits were linked to the cause of an impairment (i.e. war pensions, industrial accidents, etc.); (ii) benefit levels were not adequate to allow a decent standard of living; and (iii) benefits were confusing and stigmatizing which/ prevented many from accessing them. When developing his plan, Beveridge (quoted in Borsay, 2005, p. 163) stated that benefits “must be felt to be something less desirable than insurance benefit; otherwise the insured persons get nothing for the contributions.” This was similar to the thoughts that underpinned the English Poor Law. Thus, from the beginning, work was emphasized over benefit programs. Work and participation in the labor market has historically been the preferred response to poverty and low income.

In 1971 the Invalidity Pension was introduced for people who had been out of work for at least 28 weeks because of a sickness. This program was most beneficial to those who contributed to National Insurance by participating in the labor market; four years later a similar pension was introduced for those without employment history (and National Insurance contributions) that paid only 60 per cent of the Invalidity Pension. The next several decades did little to resolve the problems of low benefit levels and these pensions had low rates of take-up. In 1995 Incapacity Benefits replaced the Invalidity Pension. In concluding her discussion of the social security system in the United Kingdom, Borsay (2005) noted that dominant social values favored work as the primary path to citizenship.

However, the New Labour government recognized that some beneficiaries wanted to work but were afraid to leave the benefit rolls because of the uncertainty and time it took to

begin to receive benefits again, if needed. They responded by introducing reforms that allowed people receiving Incapacity Benefits to try working without any penalties. The “Permitted Work” rule under Incapacity Benefits allowed individuals to undertake one of four kinds of paid work and still receive benefits. In general, recipients were allowed to work up to 16 hours per week for 26 weeks and earn up to £72 per week; this provision could be extended another 26 weeks if that experience led to full time work. Any earnings beyond that standard triggered withholdings from the benefit amount. It did not place limits on the voluntary work a person can do while receiving benefits (Corden, 2005). These rules were intended as an initial step towards leaving benefits (Thornton, 2003).

The fear of losing benefits is a major barrier to people leaving the benefit rolls. Since 1998 there has been a “linking rule” for Incapacity Benefits (IB) that allows people to return to their previous level of benefits if they start work but need to return to the benefit rolls within 52 weeks. Still, the means-tested nature of these programs means that many people with disabilities will be better off financially if they do not work (Corden, 2005). The disincentives associated with means-testing were a challenge to the human right to equality of opportunity and full and equal participation in society. Only those who could work close to full-time and who were not concerned with losing their benefits are able to move into the labor market, which reinforces the neoliberal conception of efficiency. Only the “most able” people with disabilities (i.e., those considered to be the best workers) were able to move into the labor market, and others were left out of employment. Better rules that incorporated personal work capacity and decoupled benefits and employment would encourage more people with disabilities to work to the extent that they are able, which promotes individual autonomy and participation in society.

The 1999 Welfare Reform and Pensions Act was a significant development. It introduced four components that are central to contemporary welfare reform and form the foundation for later reforms: (i) linking work with entitlement by restricting access to IB; (ii) mandating that new IB claimants consult with a personal adviser about employment; (iii) means-testing benefits to reduce claims by 50p for every £1 over £85 of income; and (iv) introducing the “All Work Test” as a medical assessment to determine eligibility for benefits with an emphasis on work capacity (Dwyer, 2010). This test was used to distinguish those who should never be expected to work because of their condition from those expected to work or look for work and be placed on the Jobseeker’s Allowance. For the most part, Incapacity Benefit was an all or nothing scheme that did not permit work. The All Work Test became the Work Capability Assessment under the Employment and Support Allowance (see the following subsection).

Gibbs (2005) argues that Incapacity Benefit is overloaded with people for whom the benefit was never intended. While Incapacity Benefits does include people with disabilities and people who are sick, over the years, groups of people have been added to the program in place of unemployment. For example, in the 1980s Incapacity Benefits were used to provide benefits to workers from heavy industry in northeast England who were not expected to work again because of the decline in industry. They were classified as “long-term sick” so that they would not appear in unemployment statistics (Warren, 2005). In their study of disability benefits, Tergeist and Grubb (2006) were concerned that a large number of benefit recipients are transferred into the Incapacity Benefit regardless of their work capacity. Compounding the problem of the high number of individuals allowed onto Incapacity Benefits is that the rules of the program make it difficult for individuals to get off of benefits (Grover, 2007). Disability benefits grew to the point

that 8 per cent of the working age population received benefits because of disability (OECD, 2007b). People receiving benefits are positioned outside of the labor market and the continued growth of disability benefits is a major reason for the implementation of neoliberal welfare to work programs designed to move beneficiaries off of these benefits. The move to neoliberal policies and the recognition of human rights for people with disabilities both encourage labor market participation and inclusion in society. One of the strategies that has been used to move people from welfare to work is to change eligibility for benefits and implement conditionality. The benefits that were in place for people with disabilities at the time of the focus groups are detailed in the rest of this section.

ii. **Employment and Support Allowance**

Largely in response to concerns about the growth in disability benefits, and the desire to increase the labor market participation of this group, the Welfare Reform Bill 2007 increased the conditions placed on those receiving benefits, including making work focused interviews mandatory (Chapman-King, 2007). This bill allowed the government to introduce the Employment and Support Allowance (ESA) to replace Incapacity Benefits or Income Support for people with disabilities (Puttick, 2007). The ESA was touted as less complex than previous disability benefit schemes and paid people for participating in work-focused interviews (WFIs), so that benefits were conditional on them participating in a program that would help them find work (Piggott & Grover, 2009). Although this was the New Labour's perspective, Puttick (2007) shows that some groups, notably the Commons Work and Pension Committee, had concerns that the two-tiered system (those expected to work and those not) might make the benefit system more complex, a concern shared by Messere and Stenger (2007).

Under ESA, applicants took the Work Capability Assessment (WCA), which helped to direct the expectations of the applicant. People who were found not to have a disability that limited their employment were placed onto Jobseekers Allowance/Income Support, which were general unemployment protection in the United Kingdom and had work-related expectations that a beneficiary had to achieve in order to receive the benefit. The Government expected half of all ESA applicants to be denied because less people will fail to meet WCA's criteria than under previous assessments (Piggott & Grover, 2009). Messere and Stenger (2007) argue that the difficulty of "passing" the WCA was a potential negative because it was not well tested technically and people may have a hard time understanding why they were put on a certain benefit as opposed to the other. The WCA was used to direct a large number of people into the labor market (with benefits that are predicated on labor market activity) rather than being placed onto benefits. The emphasis on participation in the market is clear, but it remains to be seen how people with disabilities experience their human rights during the process.

One of the core principles behind welfare reform in the United Kingdom is personalized conditionality. Gregg (2008) proposed using three groups of people to personalize conditions: (i) a "work-ready" group of people who are currently ready for employment that should have job search requirements similar to those of current Jobseekers Allowance beneficiaries; (ii) a "progression to work" group of people where employment is a possibility over time and skill development who face requirements to work with a Personal Adviser and complete WFIs; and (iii) a "no conditionality" group of people who do not have requirements for work related activity but can still access benefits; this group would include most people with disabilities. New Labour expressed its support for this proposal and planned to pilot the model in late 2010 with

new ESA beneficiaries. Implementation of the system placed the first group onto unemployment benefits, while the third group (the “Support Group”) was mostly for people who have severe disabilities, were not expected to work and did not have work-related requirements. People in this group were only allowed to work on a voluntary basis. The other group was the “Work Related Activity Group.” As the government continued to review and reform benefits, they hoped to move all people with his abilities onto ESA by 2013 (Department for Work and Pensions, 2008). ESA consisted of a basic rate and was supplemented with a support component or work related activity component, depending on which group an individual is a part of (Directgov, 2010c). Thus, benefits were tied to participation in labor market related activities, which was indicative of the shift to neoliberal policies. This direction was consistent with the human rights approach and promoting inclusion in society, as long as the human rights principles were incorporated into those policies. Whether this was achieved is unclear, as the ability of people with disabilities to participate on a full and equal basis, have their differences respected and accepted, and maintain a decent standard of living remains to be seen. The program was too new and short-lived to have been comprehensively evaluated, but the next section of this chapter provides some qualitative insight into the experiences of people with disabilities and ESA.

Benefit levels could be periodically reduced if a claimant did not meet the agreed-upon responsibilities without good reason. Many people with disabilities were part of the work related activity group that faced work requirements under Pathways to Work. The introduction of ESA and linkages with Pathways to Work exemplified neoliberal policy values and principles in the United Kingdom, including making benefits conditional on labor market participation. For new benefit claimants, work-related activities were a condition of receiving benefits. Many people

with disabilities needed this program to effectively address the barriers that they faced within the labor market and give them the opportunity to participate in order to meet their responsibilities under recent reforms. The Employment and Support Allowance continued welfare retrenchment in the United Kingdom and created a population of disadvantaged people for the private sector to profit from (Piggott & Grover, 2009). Pathways to Work was often operated by private agencies.

The Department of Work and Pensions (Barnes et al., 2010) conducted interviews with both customers and providers in 2009 on their experiences less than year after the ESA was introduced. Staff and employment service providers were typically positive about the aims of ESA, while expressing frustration with delays in processing claims and why participants were placed in certain outcome groups. They had mixed views on sanctions and most reported avoiding using them if possible because it might negatively impact their relationships with their clients. More relevant to this analysis is the overarching theme on the lack of information from the perspective of people with disabilities. People with disabilities were largely unaware of ESA until they went to apply for IB. There were also widespread concerns over WFIs with most having no indication of what they were before attending the first one. In general, those closer to the labor market had more positive views of the WFI process, while older people and those with longer lasting conditions did not view them as beneficial. This dissertation extends those findings by providing additional evidence from people with disabilities about their responsibility to work, and experiences and opinions of employment service programs. This extension is important because it emphasizes the inclusion of the human rights approach in policy reform.

The move to ESA introduced “conditionality” that emphasized the rights and responsibilities agenda that underpins the government’s welfare to work strategy, as emphasized

by the mantra “no rights without responsibilities” found in many government publications. This phrase emphasized that rights are not simply given to everyone, there are often responsibilities/conditions that must be met before one can have a right. Such conditionality has been a central feature of New Labour’s welfare to work strategy since 1998 when it discussed the duty that individuals have to take advantages of opportunities to be independent if they are able to (Puttick, 2007). As Puttick argues, these conditions effectively enforce the behavior that should be expected as claimants seek employment, including following medical advice or undertaking labor market activity.

Grover and Piggott (2010) argue that ESA was a social sorting mechanism that divided people into a hierarchy of groups based on their employment capabilities and expectations. This was dependent on medical model WCA determinations and perceived issues with moving that person into employment, which was based around the idea of able-bodied work. Therefore the question of whether ESA respected the differences of people with disabilities, a principle included in the CRPD, is complex. On the one hand, the differing groupings recognized that not all people with disabilities can be treated the same, there was need for tailoring services to an individual's need. On the other hand, the focus on normative conceptions of work and helping people with disabilities prepare for employment under these conditions did not respect their differences. This is discussed in more detail in a later section with qualitative data from people with disabilities to supplement the analysis.

The government said that introducing ESA would cost the government over £400 million over the first five years over keeping people on Incapacity Benefits. Franco (2008) questions how this can be possible since ESA offered lower benefit levels. Among the data he cites is that

participants in the work-related activity group only receive £84.50 after the initial 13-week period, which is £1.85 less than current disability-related Income Support levels and ESA does not allow for additions to benefits because of age (a person who became sick before age 35 receives £102.25 as a long term rate currently; the ESA allowance is only £89.50) or a spouse. The Government defends the latter point by emphasizing that ESA is an individual benefit. Still, means-testing of couple's income restricts a partner from taking on more work, which is exacerbated because the partner is often the primary caregiver.

Like other benefits, the Employment and Support Allowance is available in two forms: because of low income or due to national insurance contributions. Participants in both are allowed to do some "Permitted Work" (up to £92 per week) and not face any reductions in their benefits. However, that work may result in deductions from any housing benefits or council tax benefits for those people who have sufficient National Insurance contributions (Royston & Royston, 2009). Therefore, under ESA, the permitted work rules benefit people with low incomes who are means-tested, while potentially limiting people who have worked in the past. People with a history of National Insurance Contributions who become disabled may face more challenges to reentry into the labor market.

Grover and Piggott (2010) showed that for all ESA single beneficiaries, there would be an increase in their income over IB benefits after one year, ranging from £324.25 to £682.40 per year. However, during the second year their benefits would decrease by between £663 and £923 (except for people over the age of 45 in the support group, who will have an income £260 higher). Couples in both the work related activity and support groups would lose between £1356.40 and £1724.55 in the first year and between £2368.60 and £3551.60 in the second year.

Therefore, ESA may impact marriages of people with disabilities, because they are better off financially if they remain single. Further analysis of this potential is beyond the scope of this dissertation, though it warrants further research.

ESA represented a strong shift towards the neoliberal approach to disability benefits. People with disabilities were classified as having work related responsibilities or not, and, working in conjunction with Pathways to Work (detailed below), participation in the labor market is central and conditional in order to receive support. The second section of this chapter provides empirical evidence on the experiences of people with disabilities involved in these programs and considers whether this approach is consistent with their human rights.

iii. **Other benefits**

In addition to the Employment and Support Allowance, a few other benefits were available to people with disabilities. One of these was the Disability Living Allowance (DLA). Disability Living Allowance had two parts – the care component and the mobility component - and an individual could receive either one or both of these components depending on their individual circumstances and needs. The care component was paid at three different rates: £18.95 per week, £47.80 per week or £71.40 per week. The mobility component was paid at either £18.95 per week or £49.85 per week. Receiving these benefits generally did not impact income determination for other benefits or programs (Directgov, 2010a). Disability Living Allowance was not means-tested and was available to people regardless of labor market status, though people who receive DLA had very low employment rates, as low as 9 per cent (Conolly & Hales, 2009).

A few tax credits were also available to people with disabilities in order to ensure that work pays for people in employment. For instance, people with disabilities who received disability-related benefit and work at least 16 hours per week are eligible for the Working Tax Credit. For the tax year ending 6 April 2011, the Working Tax Credit is worth £\$2570 a year (£49 per week), £1095 a year (£21 per week) for people with a severe disability and £3655 a year (£70 per week) if a person qualifies for both (Directgov, 2010e). Other tax credits for people with disabilities were available from local city councils and there were programs regarding vehicle taxes and relief from taxes on devices specifically designed for use by people with disabilities. In addition, people with disabilities could get benefits for housing, public transportation, television licensure and personal care attendants. A more complete description of these is outside of the scope of this dissertation, but they are often linked with an individual's income, which may serve as a disincentive for employment. On the other hand, if people with disabilities were able to work more than 16 hours per week, the Working Tax Credit benefited their overall income. It is important to highlight that this credit required a substantial amount of work that would likely disqualify people from receiving benefits (after their period of permitted work).

New Labour introduced a National Minimum Wage (NMW) in 1999 that established minimum payment levels for much of the population (excluding, for example, apprentices). Together with tax credits, the NMW formed the core of the government's efforts to make work pay; the opportunity to earn a higher wage it is an incentive to participate in the labor market. Under NMW, minimum weekly income guarantees rose dramatically. For a single person with a disability working full time (35 hours per week), the minimum income guarantee through

October 2010 was £248, up from the April 1999 level of £139. For part-time work (16 hours per week), the rate was £181, up from £109 (Her Majesty's Treasury, 2010). The establishment of NMW and tax credits was illustrative of government efforts to make sure that employment is financially beneficial for those in the market, especially at a high number of hours per week. The rewards for participating in the market were evident, but the human rights approach dictates that a decent standard of living be available to everybody. Concurrent reforms to benefits were unclear whether people with disabilities, both with and without labor market responsibilities, were able to maintain a decent standard of living without employment or as they prepare to move into the market.

b. **Employment policies**

Employment policy directions and welfare reforms in the United Kingdom under New Labour highlighted that employment is a preferred policy response to the high unemployment and disability benefit recipient rates for people with disabilities. Most of these programs, especially Pathways to Work and the New Deal for Disabled People it encompasses (detailed below), focused on the supply side of disability employment; they were aimed at making people with disabilities more suitable for work by providing training and developing programs to make an individual a more attractive employee. Although the aim of these programs was to move people with disabilities into the labor market, they did not improve employment statistics and evaluations have been focused on outcomes, and ignored the underlying causes of low employment (Chapman-King, 2007).

The main employment program in the United Kingdom for people with disabilities was Pathways to Work. Pathways to Work and one of its components, the New Deal for Disabled

People, are expanded on in a subsequent section of this chapter. The United Kingdom also had residential training programs and programs, such as WORKSTEP, that provided supported employment opportunities for people with disabilities, particularly for people with intellectual disabilities, although these programs are outside of the scope of this dissertation, which focuses on welfare to work initiatives.

i. **National schemes and programs**

The Access to Work scheme was run by Jobcentre Plus, and offered advice and financial assistance to individuals who needed it in order to access and maintain employment, including for adaptations and aids to the physical environment, job coaches, human support and personal assistance, and transportation fares to get to and from work (Baldwin, 2006; Howard, 2002). This program was directed at removing discriminatory practices by helping to cover the extra costs of employing a person with a disability and making them more competitive (Grover & Piggott, 2005). Research has shown that this program was generally successful for those people it does support, although it was too narrow to work for all people with disabilities. One of the main limitations is that not everyone was aware of the program, and the government did not actively promote that the program is available (Stanley, 2005). Access to Work was a policy that is consistent with the human rights approach because it recognized individual differences and that adjustments often cost money, and the government helped with these costs rather than leaving it to employers. However, when people did not know about the program, they could not take advantage of it. The lack of information on this, and other programs, was one of the points that people with disabilities made during that focus groups, and it will be discussed in more detail in the next section. Better promotion and awareness of

programs is necessary to ensure that people with disabilities take advantage of all of programs and initiatives available to them to best promote their human rights.

The Job Introduction Scheme was available to encourage employers to hire people with disabilities. For full or part-time work expected to last six months, employers could apply for this grant, which assisted employers with the cost of employing people with disabilities, including wages, for the first six weeks of employment. There were some limitations on which employers can apply; for instance, it could not be used in conjunction with New Deal subsidies (Directgov, 2010d). In 1997, a qualitative study of the program's impact was completed and found that the employment subsidies had a very low impact. Half of the employers said they would have hired an individual without the subsidy and 75 per cent of the employers continued an individual's employment after the scheme (Bambra, Whitehead, & Hamilton, 2005).

Both of these programs could stand alone or work in conjunction with larger programs, such as Pathways to Work. The next subsection discusses Pathways to Work, which is New Labour's welfare to work program for people with disabilities.

ii. **Pathways to Work**

Pathways to Work was a program designed to increase employment for people with disabilities, and the primary goal of this program was to reduce dependency on benefits; 2.7 million people claimed Incapacity Benefits in 2002 (Bewley, Dorsett, & Haile, 2007). It was piloted in seven Jobcentre Plus locations in October 2003 and April 2004 and required new beneficiaries to participate in Work Focused Interviews (WFI), while existing beneficiaries could participate on a voluntary basis. Participants could claim higher levels of financial and non-financial support (through ESA) with the ultimate goal of

moving them into employment. By the end of 2006, Pathways covered 40 per cent of the country and was extended nationwide by April 2008. The program was no longer voluntary; as people move onto ESA, they were required to attend the first Work Focused Interview. Shifting away from the voluntary nature of Pathways was a continuation of the move to conditionality seen in the UK and the right to income benefits was conditional on participating in labor market activities and/or WFIs. The emphasis on individual responsibility and participation in the market shows the influence of neoliberalism on welfare reform in the UK.

Pathways contained several voluntary components; the Choices element was comprised of the New Deal for Disabled People (NDDP) and the Condition Management Programme (CMP), which were aimed at improving readiness and opportunities for employment and partnered with local health experts to manage a condition, respectively. In-Work Support was a program contracted out to providers who provide mentoring, a job coach, occupational health support, in-depth support, and/or financial advice to people in employment. There was also a little-publicized Adviser's Discretionary Fund that allowed advisers to pay up to £100 per participant for employment-related activities.

Bewley et al. (2007) performed an assessment of the program (pilot areas) and found that it did increase the probability of working by 7.4 percentage points, but it did not have a statistically significant impact on the number of people who claimed Incapacity Benefits. However, the results did not take into account the type of employment that people obtain. Under the "Permitted Work" rules, beneficiaries could work up to 16 hours per week, and it may be that the employment outcomes reached under this program were only be a few hours of work each week, and not full-time employment.

Evidence from the expansion of Pathways from 2005 to 2008 to areas not including the pilot areas revealed similar finding to the pilot studies, despite participants having slightly more economic disadvantage and less qualifications. 35 per cent of participants attended three or more WFIs and 14 per cent attended all six. On the other hand, 27 per cent did not attend any. Of those who did attend a WFI, most found them to be helpful while 23 per cent reported them as not helping at all. Participants in both the Condition Management Program and the New Deal for Disabled People rated the programs very highly (44% and 51%, respectively, rated the programs as 8 or higher out of 10). 26 per cent of Pathways participants found employment after 13 months (though 35% had in the pilot areas), and only 14 per cent worked less than 16 hours per week (61% worked more than 30 hours per week), though most (42%) cited improvements to their health as a main reason for employment. Only 10 per cent cited improved confidence. Of the remaining participants, 21 per cent were actively looking for work and 53 per cent were not, largely because they were dealing with their health (59%) or looking after their home (12%) or family (11%). Age did not impact outcomes, though people younger than 25 did participate in more Pathways elements than the average participant (Hayllar, Sejersen, & Wood, 2010). The evidence did not show that the program was very effective for preparing most people with disabilities for the labor market, and not many went through the entire WFI process. Overall, it had the most impact for people whose health improved, so the program did meet some of its goals by helping to find employment for people with less severe disabilities, who did not need to be on benefits. This evaluation shows that it was most effective for people closest to the labor market, which is a characteristic of many neoliberal programs.

There is little evidence available to show the long-term impacts of Pathways. More evaluation is needed to show whether employment lasts more than six months. Additionally, the available evidence concerns studies of the pilot Pathways programs that covered a small portion of the country and it is not known if that success can be replicated nationally (Puttick, 2007). Puttick concluded that the success of Pathways will largely depend on how well employers engage with the program and are willing to recruit and retain people with disabilities. He pointed out that the perspectives of employers were not well involved in development of Pathways.

Pathways had the support of many large stakeholder groups, including large disability rights organizations (Puttick, 2007). Most opposition revolved around providing adequate resources for the program, low benefit levels for people out of work, the concept of conditionality, and how ESA separates people with disabilities into two groups.

iii. **The New Deal for Disabled People**

This dissertation is primarily concerned with the New Deal for Disabled People (NDDP) rather than the CMP element of Pathways. NDDP is the Labour government's main program to provide employment services for people with disabilities in receipt of benefits. It was introduced and piloted in 1999 and expanded nationally in 2001; NDDP was operated as its own voluntary program before becoming a part of Pathways to Work. Only 3.1 per cent of people who moved onto benefits participated in the program in the year ending in May 2006, and most of those were very close to the labor market anyway (Stafford, 2007). It was delivered by private, public and voluntary organizations and has two variations: Personal Advisor Service (PAS) and Innovative Schemes. Under PAS a personal advisor worked with claimants to find and keep employment. Innovative Schemes involve organizations taking

creative approaches to removing barriers to work which could be replicated. The PAS variation is what is commonly thought of when one refers to the New Deal. Personal advisors at Jobcentre Plus offices introduced the New Deal to new beneficiaries when they entered the local offices and engaged in Work Focused Interviews. Unlike other New Deal programs, NDDP did not include a subsidy for employment like the other New Deals. Rather, the program uses Work Focused Interviews in conjunction with work incentives and tax breaks and better employment services to encourage labor market participation (Stafford, 2005). The focus of the interviews was to create an action plan for moving into employment (Grover & Piggott, 2005).

Stafford (2005) noted the main findings from evaluations of NDDP: first, take up of the program was low along with awareness of the program; second, providers typically selected only those participants who were closest to the labor market and could be easily serviced; third, it was important that job brokers had strong relationships with other organizations; fourth, the staff on the front line of service delivery had a critical role and it is important that they be knowledgeable of the programs and services available; fifth, it is important that employment providers have strong links with local employers; sixth, in general participants in the NDDP were positive about their experiences in the program; seventh, it was unclear how successful the program has been in achieving employment outcomes; eighth, there was a need for additional in-work support programs; and finally, it is unclear how cost effective the NDDP has been. These findings created a muddled picture of the effectiveness of NDDP before it was expanded nationally. One of the major limitations to the New Deal for Disabled People was that it was not adequately funded. In 2002-3, it was funded for £30 million, compared to £80 million and £270 million for the New Deals for lone parents and young people, respectively (Stanley, 2005). Organizations

received funding for serving people under the New Deal only when they met certain outcomes. The findings of these evaluations question whether NDDP was consistent with human rights for people with disabilities. For example, the principle of equality of opportunity is unclear because these results suggest that the program worked best for people who are closest to the labor market. The low level of funding the program received raises concerns about its ability to promote full and effective participation for people with disabilities. Furthermore, the need for better coordination between programs and with employers emerged from those projects, and these themes are also present in the themes from the evidence people with disabilities provided that are discussed in the next section, further questioning the consistency of this program with the CRPD.

Stafford (2007) synthesized many of the many of the Department for Work and Pensions' reports on the NDDP. Among the key evidence is that between July 2001 and November 2006, 43 per cent of NDDP participants found jobs, 57 per cent of which were sustainable for over 13 weeks. Most service providers view the NDDP as having a positive impact on their organizations, and in turn, most participants viewed the services they provided very favorably. Although now a part of Pathways to Work, qualitative evidence suggested that knowledge of NDDP was limited and that knowledge of other New Deals was higher. The evaluation argued that the impact of the policy from participants' perspectives is less clear. Although the overall societal (combining government and individual) benefit is clearly positive, the impact on individuals alone, particularly their earnings, is less clear. While participants who moved from benefits to work saw a substantial increase in their income, for participants as a whole the benefit was marginal.

An overall cost-benefit analysis showed that NDDP saves the government £2,500 for a long-term participant and £750 to £1000 for a more recent beneficiary (Stafford, 2007). However, the analysis for individual Job Brokers showed that they lost about £300 per participant, though large Job Brokers (900 or more participants) tended to operate at a profit. Conversely, although additional participants made providers more profitable, they were less effective. Size was inversely related to the proportion of placements obtained (Greenberg & Davis, 2007). This questioned the characteristics of the participants in large service providers. Do large providers simply taken on more clients in order to be more profitable, but not offer participants adequate services? These results suggest that might be what was happening, although more research is needed before making that conclusion.

Dwyer (2010) noted that most academics were critical of the NDDP, primarily because of the lack of quality employment opportunities and because it conceptualized social security as being for people with the most severe disabilities and needs only. Heenan (2002) saw some of the positive impacts of the policy and that it benefits the participants enrolled in it. However, her analysis occurred when NDDP was voluntary, and did not necessarily apply to the NDDP under Pathways.

Grover and Piggott (2005), noted that the NDDP portrays people with disabilities as different than other workers, which only served to pay attention to the distinction between people with disabilities and able-bodied people. Warren (2005) argued that people who participate in the New Deals can be characterized as the deserving poor, which is a key theme throughout the history of British social policy. They were encouraged to change their behavior and aspirations in order to align themselves with the policy goals of the government. Roulstone and Barnes

(2005a) echo this idea. The deserving and undeserving distinction is reflected in the idea of a “disability category,” which underlied New Labour’s position of work for those who can and support those who cannot. When they are treated as the “other,” people with disabilities cannot have human rights under the CRPD, which calls for respect for and acceptance of people with disabilities and their differences and their full and equal participation in society. While the NDDP was focused on supply-side reforms, it is difficult to achieve reforms that are consistent with human rights without addressing broader change, creating demand for workers with disabilities, and raising awareness of the capabilities of people with disabilities as employees.

iv. **Jobcentre Plus**

Most employment programs for people on benefits in the United Kingdom were run through local offices known as Jobcentre Plus. These offices combined employment services and benefit applications in a single office and staff. The offices were formed with parts of the Department for Work and Pensions, the former Employment Service, and the former Benefits Agency. During a 2007 hearing before the House of Commons Pension and Benefits Committee, evidence was given that every day Jobcentre Plus handles over 18,500 jobs from employers, 43,000 personal interviews between advisers and customers, 15,000 new claims for benefits, and 78,000 calls into their call centers (House of Commons, 2007).

One of the primary roles of these offices was to provide a personal adviser who provides advice to beneficiaries on an individual basis (Thornton, 2005b). These personal advisors engaged in mandatory Work Focused Interviews as part of Pathways to Work with all new benefit claimants to assess their ability to participate in the labor market. Jobcentre Plus offices were not always direct providers of employment services. Rather, these services are contracted to

private, voluntary and private providers who were paid for results and the outcomes they achieve (as noted before, Pathways to Work is contracted out to private agencies in Leeds). This is referred to as the “black box” method where the government does not dictate how to provide services, but is more concerned with the outcomes (Department for Work and Pensions, 2008).

Jobcentre Plus offices also worked with local employers. One of their initiatives was the “two ticks disability symbol” that they awarded to employers who had demonstrated a commitment to the employment of people with his abilities. This symbol was comprised of two tick-marks and the words “positive about disabled people.” Specifically, employers who were awarded this recognition and displayed the symbol made five commitments:

- To interview all people with disabilities who apply and meet the minimum criteria for a job vacancy and to consider them on their abilities;
- To discuss with employees with disabilities, at any time but at least once a year, what both parties can do to make sure disabled employees can develop and use their abilities;
- To make every effort when employees become disabled to make sure they stay in employment;
- To take action to ensure that all employees develop the appropriate level of disability awareness needed to make these commitments work; and
- To review these commitments each year and assess what has been achieved, plan ways to improve on them and let employees and Jobcentre Plus know about progress and future plans (Directgov, 2010b).

Overall, the policy context in the United Kingdom was one that encourages people to work in the labor market rather than receive benefits. Introduction of the ESA for people with disabilities sorted them into groups based on their work capability. They participated in Work Focused Interviews with an employment advisor through the Pathways to Work program to become ready for the labor market. The emphasis on supply-side policies and programs was a central tenet of New Labour policy directions; little attention was given to increasing demand for workers with disabilities or making the labor market more accepting of people with disabilities. Few studies have explored the experiences of participants in the program, and this dissertation will contribute to this area with an emphasis on the human rights experiences of people with disabilities using the CRPD as a framework. The themes that people with disabilities discussed during focus groups are presented in the next part of this chapter.

B. **Focus Group Results and Analysis**

This section presents the results of the focus groups conducted in Leeds. Seven dominant themes emerged from the data and they are presented below. Each theme has been developed with literature from the field and is analyzed with specific attention given to how these results and policies in the United Kingdom embody the principles that underpin the Convention on the Rights of Persons with Disabilities. The themes that emerged are: (i) international and national rights; (ii) welfare reform; (iii) rights and responsibilities under welfare reform; (iv) policy implementation; (v) policy communication; (vi) employer attitudes on capabilities; and (vii) access and adjustments.

1. **International and national rights**

Because this dissertation is framed around the CRPD, the experiences of people with disabilities and their perspectives on national and international rights is central to the results. People with disabilities considered the Disability Discrimination Act (DDA) to be an important law in the United Kingdom. It offered legal protection that has the potential to reduce barriers to participation in the labor market. However, people with disabilities were concerned that business and the general public see the law as just “red tape” that has to be “dealt with”, rather than as a fundamental right to ensure access and equal opportunity. Some people with disabilities thought that employers were avoiding conflict by not hiring people with disabilities: “They don’t employ as many people with disabilities because they don’t want to cause disturbances in the workplace with able bodied people saying ‘why are they getting treated different’... that’s another reason why you find people with disabilities not seeking employment, that sort of discrimination” (Ian, male, age 56, physical disability). The experiences of people with disabilities are supported by evidence from the literature. As was mentioned earlier, despite being in place for over 15 years, the DDA has not had a significant impact on employment rates of people with disabilities (Bell & Heitmuller, 2009). In general, evaluations of the DDA have been mixed (Pearson, et al., 2011). Although it raised awareness of disability issues and increased physical access (Leverson, 2002), antidiscrimination legislation, despite its rhetoric, has not met the expectations or hopes that were originally envisioned for it. This includes embodying the human rights principles of promoting equal opportunities, nondiscrimination, respect for and acceptance of difference for people with disabilities. Still, legislation is not enough by itself, though it can provide a good foundation for other policies that promote equality

for people with disabilities. A few policy initiatives have the potential to redress this. For instance, a provision in the 2005 amendments to the DDA (and after 1 October 2010 in the Equality Act) stated that public bodies had a duty to promote the rights of any mainstream services for people with disabilities, while not specific to employment, could be effective if it was adapted for the private sector. The “two-ticks” scheme promoted by Jobcentre Plus was an example of the proactive approach that could offer the potential to strengthen disability discrimination legislation, by guaranteeing an interview for anyone with a disability who applied at an organization that is part of the scheme. While the people with disabilities in this research did not mention these policy initiatives, they do have the potential for increasing human rights of people with disabilities by being proactive about equalizing the opportunities that are available, so that antidiscrimination legislation can be more effective.

Part of the challenge with anti-discrimination legislation is that marginalization occurs outside of the workplace, which means legal measures, workplace policies and various systems of support can only go so far. There is a need for change in attitudes towards people with disabilities. People with disabilities suggested that public education might help, especially if it starts at a young age. A widespread public education campaign (“See the Person”) did accompany the DDA, though the people who participated in this research did not mention it. One person with a disability did not expect things to change quickly:

What the government can do (to raise awareness about disability)? I honestly don't know. It is just such a big job, raising awareness; it is almost like social engineering. You have to start them when they are young. We are only like 20

years into it now, and it is going to take 100 years or more, so we do this for the future generations. It is not going to happen in our lifetime. I am just being pragmatic, but it is promising because every decade it slowly gets better (Abe, male, age 45, deaf).

People with disabilities realized that the principle of nondiscrimination was present in the rhetoric of policy, but work still had to be done so that principle was put into practice by society.

In discussing whether international human rights could be more effective than national anti-discrimination legislation in changing discriminatory attitudes, people with disabilities were overall critical of the use of human rights in effective change, wondering “How far you can actually take human rights?” (Mike, male, age 56, physical disability). Many thought the CRPD was “just words” which did very little to change anything. People with disabilities did not feel that their rights were a primary concern in the country. There was little focus on disability, disability rights and other areas of discrimination in most visible political processes. One person with a disability pointed out that “we are in the background” (referring to the political process) and during the last general election disability was not talked about, while race and immigration were (Larry, male, age 57, visual disability). Given the lack of attention nationally, people with disabilities were not confident that an international law would get better attention.

The overall outlook on rights, both nationally and internationally, was that they did not do much to impact the lives of people with disabilities. There was an understanding that their rights were often second place to the needs of business. One person with a disability explained that he did not think rights would ever be strengthened in the UK, because the government is

increasingly pro-business. In fact, he was worried that their employment rights may be curtailed, with the government “saying it’s costing employers a lot of money” (Mike, male, age 56, physical disability). Tension between neoliberal business interests, and the human rights of people with disabilities was very evident to people with disabilities in the UK, and this tension constrained how well CRPD principles are embodied in the national context. The discussion of national and international rights in the United Kingdom shows that there is work to be done before the CRPD principle on non-discrimination is fully incorporated. The DDA is a necessary, but not sufficient, piece of legislation. Despite the existence of antidiscrimination legislation, people with disabilities still faced discrimination on a regular basis. This limited other human rights principles like equality of opportunity, accessibility, and full and effective participation and inclusion in society. This research showed that there was little faith that the CRPD would be an improvement, which raises concerns about the incorporation of human rights within the neoliberal policy reforms that emphasize “no rights without responsibilities.”

2. **Welfare reform**

People with disabilities were aware of the trajectory of welfare reform in the United Kingdom. They were not against the government emphasizing getting off benefits and into work, “as long as we are not harassed into having to work. I think I still have a choice to work or not...but it’s [not good] if you’re being harassed, we want you off your benefits” (Mike, male, age 56, physical disability). This comment related to discussions by people with disabilities about wanting employment in a good position. They were wary of policies emphasizing any job possible, rather than one that is chosen, just to move people off of benefits,

which was mentioned in the literature. Still, if adequate supports and benefits were in place, people with disabilities thought it was fair to have labor market responsibilities.

People with disabilities were in favor of the position that there should be different expectations for people depending on what position they are in. They believed that those who are able to work should have employment or job-search expectations is good, but “people who are not really fit to work should be supported” (Ron, male, visual impairment, age 53). Because of this, one person with a disability argued that “a two tier system might be the best way to deal with it” (Larry, male, age 57, visual disability). The Employment and Support Allowance was based on this concept, as was explained in an earlier section of this chapter, by placing people with disabilities on different levels of the allowance based on their work capabilities (Grover & Piggott, 2010). Another person with a disability believed that benefits were too easy to obtain, although these comments also noted that there was little incentive to work: “there should be some financial incentive to get someone off Incapacity [Benefits] to work, and I believe there are far too many people on the Incapacity Benefit that don’t actually need it. It’s just an easy passage” (Mike, male, age 56, physical disability). This view echoed one of the primary reasons for welfare reform: benefits are overloaded (Tergeist & Grubb, 2006). People with disabilities thought that one of the positives with the introduction of ESA is that people who do not need to be on benefits might be found out and put into the labor market because they do not need support.

Although in general people with disabilities thought that people who could work should work and not be on benefits, they were also cognizant for the chance posed by finding a balance

between of having adequate income support and ensuring that people were not taking advantage of the system:

I think the really difficult task is to develop policy that is sensitive enough to be able to weed out those people who are actually working the system as opposed to those who genuinely need support and if you put instruments into place that are too blunt I think it could be unfair.... I think what you are going to have to do this is a casework load type system and you are going to have to get people who really know what they are doing to be able to assist and look at every person. You have got to throw a lot of resources at it. If you just do it as a minimalist thing you know, and have a nice process and just trying to fit people into various spots, 80 per cent of the time it will work but the other 20 per cent I think you could see people, through no fault of their own, [not make it]. I would like to see something that is tough, but fair (Abe, male, age 45, deaf).

People with disabilities called for more attention and respect to be paid to their capabilities as workers. They thought those who could work should be given support into employment. However, not everybody will be able to participate, especially immediately. Although there are concerns over how it is used, the Work Capabilities Assessment has the potential for being consistent with the human rights approach when determining eligibility for benefits. By emphasizing the need for welfare reform to be “fair,” people with disabilities stressed the importance of human rights, particularly respect for the differing abilities of people and

recognizing their inherent disability. It is important that a safety net that ensures a minimum standard of living is in place for people for whom participation in the labor market under welfare reform is not an immediate option.

People with disabilities also recognized the potential danger if welfare reform was not effectively implemented, with programs put in place that are adequately funded and well designed. There were concerns that welfare reform could be just about moving people off of benefits and saving money. Without a strong commitment to finding employment, “it will just be a way of reducing benefits” (Hope, female, age 37, ABI). The policies implemented under welfare reform are discussed in detail in a later theme. These policies and a commitment by the government to ensuring that people with disabilities can find employment or get training to be better prepared for the labor market is essential to embodying the CRPD principle on equality of opportunity. However, as many of the previous sections stressed, most policy was focused on supply-side, so ensuring equality of opportunity is a difficult task without a corresponding emphasis on promoting opportunity in the market.

People with disabilities largely agreed with the goals of welfare reform. If put into place effectively, the neoliberal ideas behind welfare reform could promote human rights. When people are moved off of benefits, having good programs in place promotes equality of opportunity and working with an employment advisor can help to respect the differing needs of people with disabilities and include them in the labor market. In the case of welfare reform, the goals of politicians (reducing dependency on benefits, reducing poverty and increasing the employment rate) align with the rights-based perspective informing the disability rights movement: increased participation in society – especially the labor market – is crucial. With

regard to effective welfare reforms, Gibbs (2005) identified the main obstacles as narrow eligibility requirements, the tendency to serve people already in work, the amount of time it takes to deliver services, the lack of knowledge on the needs of people with disabilities, the emphasis on budget and programs, and the lack of cohesion in service provision. Eradicating these barriers through effective policy would help to recognize the role that society has regarding disability, which is something the Convention explicitly mentions – society plays a large role in creating disability, and rights-based policies can help to prevent impairment from turning into a disability that limits participation in society.

3. **Rights and responsibilities under welfare reform**

People with disabilities understood that welfare reform implies rights and responsibilities, however some people with disabilities saw that it was unfair to have expectations of them, but not for government: “I think of that as a contractual thing. It takes two to tango. You both have to contribute something. So, I have to be able to say, look I want to be able to work, I want to work, but the government has to do its bit and give me the tools, the support to allow me to work independently” (Abe, male, age 45, deaf). Many people with disabilities believed that there was a need for more incentives: “There should be some kind of reward for moving forward and perhaps going into work, not the fear of not having any benefits left at the end of it. They should be encouraging you back into work shouldn’t they, not scaring you” (Hope, female, age 37, ABI). One way of encouraging people back into work is adopting a policy for partial work capacity. The policy approach defined by welfare reform does not have respect for the differing levels of participation that people with disabilities have; rather, the choice is between work and benefits with little combination of the two. Howard (2002) noted

that people could be at different points along a spectrum of distance from the labor market. The “permitted work” rules under Incapacity Benefits and the Employment and Support Allowance only allowed a meager amount of work. As was highlighted in Chapter 2, partial work capacity is a policy approach that promotes employment to the full extent that each individual is able and provides benefits to ensure that income from the partial work capacity meets a minimum standard. This approach respects the differing work capacity of all individuals while ensuring that they are still able to have a decent standard of living. Moving in the direction of partial work benefits would help the United Kingdom be more consistent with disability human rights.

When discussing the rights and responsibilities, some people with disabilities emphasized that it was up to them to stand up for their rights. There was an understanding that rights and responsibilities largely applied to the claimant, and they had the responsibility to make sure that they take advantage of what is available to them. People with disabilities accepted that they also have the responsibility to work, but emphasized that the government also has the responsibility to make sure that there are opportunities for them to participate. The use of supply-side programs focused on addressing the individual with little regard for the underlying causes of unemployment and without addressing barriers within the labor market itself (Baldwin, 2006). This is indicative of neoliberal influences on policy and that focus is misguided when there are few labor market opportunities to begin with.

Additionally, people with disabilities were concerned about the lack of choice that they have in the labor market. Many people with disabilities felt that they had very limited choice in the types of work available and who would hire them. Again, this concern reflects broader policy questions about the expectations of moving from welfare to a job, rather than being encouraged

and supported to move from welfare in to a career. People with disabilities felt that the workfare programs were pushing them into “any work,” which differed from people without disabilities who often choose the type of work they want: “I don’t think we have the same choice as an able bodied person. [...] Other people can go out to work and enjoy what they do, because it’s their choice to go into that profession” (Fran, female, age 38, physical disability). Restricting the opportunities available to people with disability runs counter to the human rights principle of individual autonomy and independence.

People with disabilities noted that they were frustrated by the lack of opportunities in general. Not having opportunities to participate in the labor market can build on an individual: “when I was first made unemployed in 2007, I felt enthusiastic, but then I got fed up. You get like that” (Larry, male, age 57, visual disability). When opportunities do arise, they were not always of the quality that people want. One person with a disability explained that when he became disabled, his company “did offer me a lower job that I did not want to do at all, because I thought it was below me. Because when I was totally fit and everything I wouldn’t have to do that job” (Ian, male, age 56, physical disability).

There was concern that once a person was enrolled in an employment program, people with disabilities were not always offered much choice about the work they undertook. The programs focused on finding paid employment at the entry-level with little regard for finding better employment (Grover, 2007). Barnes and Roulstone (2005) argued that work must be made more socially and financially rewarding in order to better encourage people with disabilities to undertake paid work. They often found jobs of low status and therefore low wages. People with disabilities should be given greater choice and control over, as well as access to better,

employment opportunities they receive from participating in a welfare to work program. The role of personal advisers through Pathways to Work and the New Deal for Disabled People was a step in the right direction, though evidence that people with disabilities have been able to obtain more than entry-level employment has not yet been produced.

Purdam et al. (2008) reviewed survey data in the United Kingdom in order to assess equality between people with disabilities and people without disabilities and found a number of gaps between people with disabilities and people without. The evidence that was available left little room for argument that people with disabilities received equal treatment within the labor market. The opportunities available to them were less than what was available to the general population, which is contrary to the principles of equality of opportunity and full and equal participation in society. Additional efforts are needed to promote equal opportunities for people with disabilities, particularly related to increasing the demand for employees with disabilities.

Many people with disabilities were concerned that economic recession would further limit their opportunities. One person pointed out, “before the recession came, I was unemployed for 2 years, and it was hard enough then with no jobs coming up, but now it is even harder” (Larry, male, age 57, visual disability). There were also concerns that benefits would be cut in the near future because of the push for efficiency by the government. This made employment even more important. The first principle under the CRPD concerns the right of people with disabilities to have individual autonomy and make choices about their lives. People with disabilities expressed that their choices were constrained, partly by a program that encouraged them to find any job, and partly because of limited choices in the overall labor market.

4. **Policy implementation**

People with disabilities were also concerned with the programs that have been implemented. Specific concerns they mentioned included the assessments that guide labor market responsibilities under welfare reform and the relationship between Jobcentre Plus and Pathways to Work providers.

People with disabilities found the assessments they were put through to be onerous and exhausting. As one individual said, she was “getting sick of these assessments” (Kate, female, page 47, physical and mild learning disabilities). Others were suspicious that the government was trying to trick them during the assessment, for instance by having staff watch them from windows so that their assessments were completed before actually having an appointment. A few participants described going through the assessment procedures for Pathways to Work, without fully understanding what the assessments were for. In a few cases there was frustration because the adviser did not understand how to work with someone with a disability (i.e. low vision in Ron’s case). They did not find the assessments helpful, and they were often a waste of time.

The experience of disability has frequently been equated with incapacity and the inability to contribute to society. This was highlighted through the contradiction between employment and qualifying for benefits. In order to qualify for Incapacity Benefits, a beneficiary had to show they had an impairment that limited their ability to work. Receiving benefits and working at the same time was not an option. Under the new Employment and Support Allowance, there was more of a case-by-case focus on beneficiaries that allows them to create their own employment goals. The Work Capacity Assessment has been redesigned to take a more holistic approach which promotes respect for people with disabilities rather than focusing on their diagnosis (Fox, 2007).

Respect for individual differences is a principle under the CRPD, and this change promotes respect for what a person can do rather than what they cannot. As noted in a previous section, the intent of the WCA is laudable and consistent with a human rights approach. However, if not implemented properly, it can exacerbate experiences of difference and remove the potential for promoting human rights. This is what happened in this research; in practice, people with disabilities did not report feeling that the WCA was helpful. In the end, it was still a medical assessment based on the opinions of medical professionals, which ignores the social model of disability that the CRPD is built on. The assessment may be individualized, but questions remain about how well it respected individual differences.

In discussing what government could do better to help them work, people with disabilities spoke of better coordination, information and streamlined services: “I think they (government agencies) could try and help a lot more rather than just pushing around from one organisation to another organisation... people like me, they put you on different types of lists, you are just numbers to them. I need more help, more advice” (Larry, male, age 57, visual disability). The participants did not feel that policy offered them enough supports. One of them pointed to the statistic that less than two per cent of people with disabilities are employed as evidence that national policy is not working. Employment advisers were not very forthcoming with them about programs that were available, like Access to Work. When people with disabilities were told about existing programs, the frustration grew because, “when you look into it, it just doesn’t work for you” (Gaby, female, age 35, physical disability).

Several of them expressed frustration with Jobcentre and how they were pushed from organization to organization, some of whom had no idea how to work with someone with a

disability, so better communication between Jobcentre and different providers would be very beneficial. They thought that they were just a name on a list, or “just numbers to them” (Larry, male, age 57, visual impairment). People with disabilities also noted that many employment agencies are not very helpful to people with disabilities because they do not understand disability. People wasted their time until they were linked with an agency that did not have skill working with people with disabilities. Employment agencies need better respect for people with disabilities and to understand them as a part of human diversity that should have equal opportunities to receive services.

One of Stanley’s (2005) recommendations for improving welfare to work programs was to make mainstream programs more accessible to people disabilities and expand programs specifically designed for them. Using specialized programs for people with disabilities acts to highlight their differences and reinforced the idea that they are outside of the realm of “normal human difference” all agencies and offices should have people trained to work with people with disabilities, so that they have equal opportunities and do not have to struggle to find someone to work with. However, adequate training for those advisers is essential for recognizing the differences of people with disabilities and being able to work with them respectfully.

People with disabilities complained about the bureaucracy between Jobcentre Plus and Pathways providers. Each assumed that the other gives people information on programs that are available, but they did not. People with disabilities wanted better communication: “the left hand doesn’t know what the right hand is doing” (Mike, male, age 56, physical disability). Another person with a disability shared same experience. The two organizations did not share basic information like type of disability. When Jobcentre sent him to Pathways, he was frustrated

because “Pathways did not know [I was blind]. It should not have been a surprise for the person at Pathways” (Ron, male, age 53, visual disability). Coordination between different elements of government services was supposed to be one of the strongest features of the New Deal for Disabled People. It relied on greater awareness of the existing policy options to get employers to hire people from the program (Stafford, 2005). The concerns raised by people with disabilities showed that policies may not have been implemented as well as they were designed, and need continuous collaboration in order to promote the participation of people with disabilities. People with disabilities do not have equality of opportunity when policies are not implemented the way that they were designed. It requires better communication and coordination in order for programs to be fully accessible to people with disabilities so that they can take advantage of the policies available.

5. **Policy communication**

One of the main barriers reported in this research centered on communication about welfare to work programs, and in particular the lack of information given to people with disabilities. There was disconnect between policy discourse about welfare to work and informing people with disabilities. Most of the people with disabilities had never heard of the welfare to work schemes that were in place, and said that their advisors did not really encourage employment. As one person said, employment advisers felt like they should not “feed [people with disabilities] the information, because it’s too much like hard work” (Fran, female, age 38, physical disability). A number of people with disabilities said that their social workers and employment advisers often encouraged them not to find employment because they don’t know how it would impact other parts of their benefits. The lack of this information was a barrier to

many people with disabilities: “Its discrimination when you can’t even access what you need from the people around that you can ask. It’s this magic person who is never there when you want him” (Jan, female, age 57, physical disability). Not having adequate information about policies is a form of discrimination against people with disabilities, because information is the first step in participation in policies and programs. Even the best programs will not be accessible to people with disabilities if they are not aware of them.

One person with a disability (Mike, male, age 56, physical disability) noted that if you wanted to find out about government programs you had better go to a government office. He knew that there were dozens of grants and programs available, but was unsure to find out where they were. One person with a disability thought better publicity would help, and another emphasized that they were hard to find and get on “unless you know the right contact and where to go” (Larry, male, age 57, visual disability). People with disabilities were very cynical about receiving information in general. When asked how they get information about what programs are available to them, one of the people with disabilities responded “you don’t” (Beth, female, age 39, physical and visual disability). Some people with disabilities wanted to receive the information by having the government come and do a session with them or phone them.

One of the primary methods that people with disabilities used to obtain information on programs is the Internet, which was described as “quite liberating” (Abe, male, age 45, deaf). However, some people were frustrated by that system. As one person said “if you don’t know where to look, then you can’t access it” (Fran, female, age 38, physical disability). They suggested that organizations like Resource Centers should have a bigger role in sharing information with others. Many people also just frustration that the social workers who worked

with them are not well educated on employment programs and do not know how to finance or manage them.

These examples by people with disabilities corroborated one of the things mentioned in other research: that people with disabilities do not have much information on the policies available. Examples from the literature that was presented in the first part of this chapter show that people with disabilities did not have good knowledge of the New Deal for Disabled People when it was first introduced (Stafford, 2005) or of the Employment and Support Allowance (Barnes, et al., 2010). The information provided in regard to welfare reform also implies neoliberalism with its focus on individualism. While information might be available, especially on the Internet, it largely required an individual to seek out this information in order to learn about the programs available to them. Access to information is fundamental to human rights, without access to adequate information people with disabilities do not understand how they are impacted by welfare reform. In order to achieve equality of opportunity, full and effective participation in society, and other human rights principles, better access to information is necessary for people with disabilities.

6. **Employer attitudes on capability**

One area that welfare reform did not directly address is changing employer attitudes towards hiring people with disabilities. Despite the belief that their rights were often not promoted and there were not a lot of opportunities, people with disabilities were in clear agreement that employment was one of their goals. Employment was important for social reasons and was seen as adding structure to the lives of people with disabilities. They also preferred to work over receive benefits because “you can do better [financially] if you work”

(Cara, female, physical disability, age 60). They believed that the main thing employers were looking for when they hired someone was that that person was able to do the job.

However, people with disabilities did not think that they were given the chance to show that they could do the job. They wanted employers to have a better understanding of capabilities, rather than focusing on their disability. Other people with disabilities wanted employers could be more understanding of their disabilities: “It’s bad enough being unemployed, with being disabled, besides being penalised by not being paid the same work rate as someone who is not disabled. I’m not as fit, I’m slower, if people took that into account it’d be a lot better” (Ian, male, age 56, physical disability). Additionally, there was a need for change in attitudes towards capability: “It’s almost like a change in acceptance by companies and employers, acceptance and understanding that you are fully capable of doing a lot of the things that they’re requiring” (Hope, female, age 37, ABI). People with disabilities were encouraging a shift in attitudes away from the neoliberal conceptions of efficiency and the “ideal worker.” People with disabilities did not feel that their differences were respected, and employers would not consider them because of their business interests.

One person with a disability suggested that it was a matter of being able to show employers what they could do. He thought that the government could operate an office or workshop and employ people with disabilities “and employers would walk through the building to [see] what a disabled person is capable of doing” (Ian, male, age 56, physical disability). The government does produce some literature on making adjustments for employees with disabilities (e.g. Leeds City Council, 2009), though that person with a disability’s quote shows the belief that it is more beneficial for employers to see this in practice. Fran (female, age 38, physical

disability) emphasized that it “needs to be on a personal basis.” Literature can only do so much, because employers have to access and then read it; but being able to showcase talent to an employer is more likely to have a lasting impression. Other people with disabilities thought that more publicity might help to raise awareness about employing people with disabilities. A campaign on the capabilities of people with disabilities would help to ensure their human right to acceptance of their differences and inclusion in society.

Many people with disabilities did not believe that employers understood their obligations under disability discrimination legislation. It was generally agreed that larger employers had a better understanding of DDA than a small employer, largely because of human resources staff in large employers. Furthermore, they had more resources so that employing people with disabilities was a more likely option for them than a business with few resources. Research supports the view of people with disabilities. Only 76 per cent of employers were able to identify the DDA in 2009, which is down from 80 percent in 2006. A qualitative follow-up to that survey showed that those employers who were able to identify the DDA did not have a good understanding of the law or their obligations under the law (Dewson, et al., 2010). People with disabilities are unlikely to have positive experiences with rights when the foundational piece of legislation in the area the disability rights is not well understood by employers. The DDA needs to be strengthened so that employers are more aware of their obligations and discrimination against people with disabilities is further reduced. This highlights that the rights of people with disabilities are often subjugated to the neoliberal concerns of the business community.

7. Access and adjustments

Many people with disabilities were concerned about physical barriers to employment, ranging from anything as simple as accessibility for getting into the workplace to the need for a clean environment so that they could put eye-drops into their eyes. These physical barriers must be addressed first, because if they are not in place it does not matter if a person can find any work, let alone make a distinction between full-time and part-time work:

In some cases it doesn't make a difference whether its full- time or part- time, you've still got to go up a flight of stairs to go to the toilet, doesn't matter how many hours you are working. If you've still got to sit in a different room to everybody else to have your lunch because you can't get to the canteen, what difference does it make how many hours you are working?" (Fran, female, age 38, physical disability).

Once in the building, additional barriers prevent people with disabilities from participating. Most of these are because "they [employers and co-workers] don't think ahead" (Jan, female, age 57, physical disability). People with disabilities mentioned that such obstacles include things like furniture being in the way, or equipment being too high and out of reach. The DDA did protect against and provide for these issues, but people with disabilities did not make that connection. This likely goes back to the first theme, and the lack of faith that people with disabilities had that the DDA would protect their rights against the interests of business.

People with disabilities also recognized that their need for support on the job could be a barrier. A few people recounted being told that they should work from home, where they had support. One person said, “Because I had a parent at home that provided care, [the employer thought] ‘oh you don’t need to go out to work, because you’ve got your support at home. You’ve got your mother’” (Gaby, female, age 35, physical disability). Similarly, people with disabilities were concerned about their ability to get medical support if they were at work and the treatment they would get from employers if they had to leave in the middle of the day. Additionally, they wanted to have more security that they could tell somebody about their condition and if something happened in the middle of the day that person would know what to do. Again, while policies may exist that protect people with disabilities, they did not make that connection, or were not aware of policies and let these barriers stop them from pursuing additional employment. Better information and communication on the supports and policies that are available would help to increase equality of opportunity for people with disability and promote their full and equal participation in society.

One of the supplemental employment programs frequently mentioned throughout the research was Access to Work. Most participants had a negative view of this program, with one participant calling it a “load of crap” (Gaby, female, age 35, physical disability). Most of this frustration was because it does not work for people who are looking for a job, it is for the people who already have a job but need an adjustment. One person with a disability thought that it was a positive program: “philosophically, it is a brilliant scheme because it is saying to employers, ‘if you hire this person then you don’t have to incur that additional cost’” (Abe, male, age 45, deaf). Accessible software is one need that was often reported. However, it was too expensive for the

individuals to buy: “I would like to go back into work, but I need assistance because I can’t see text. Just the software alone is £400, and that’s before you buy hardware. My little magnifier is £400. This stuff is expensive” (Larry, male, age 57, visual impairment). “Social services once mentioned some software, but I wasn’t able to get the funding for it. Somebody is looking into getting some software for me. They are also trying to get me keyboard trained and finding possible funding opportunities for software” (Ron, male, age 53, visual disability). For other participants who received accessible software, they were made to feel as though they were abusing the system: “[On the Access to Work program] I was just trying to get exactly what I needed (accessible equipment/software) to do my job. And I got them in the end, but that lingering sense of ‘well, do you really need this?’, that kind of left a little bit of a bad taste in my mouth really” (Abe, male, age 45, deaf). The resistance that people with disabilities encountered in trying to get adjustments under Access to Work is not consistent with the CRPD, which encourages programs that fund accommodations for people with disabilities in the market. While this program can be a facilitator of human rights, not having an awareness of it and difficulty obtaining support from the program can be a barrier to full and equal participation, human rights and employment in general.

Access to Work has the potential to be one of the strongest points of policy regarding employment for people with disabilities in the United Kingdom. It offered funding to employers to provide the reasonable adjustments that the DDA mandated. Access to Work is a way around neoliberal concerns about the cost of employing people with disabilities and removing that concern as a barrier to their employment. Government funding allowed people with disabilities to be more independent in their job searches and not have to rely on employers for those

adjustments. This scheme allowed them to be independent in identifying exactly what they need in order to be able to be employed, giving them more autonomy over their search.

C. **Conclusion**

This chapter has detailed welfare reform for people with disabilities in the United Kingdom under New Labour (1997-2010). The reforms were based around the Employment and Support Allowance and Pathways to Work, which worked together to move many people with disabilities from benefits into the labor market. The Employment and Support Allowance used the Work Capability Assessment to place people with disabilities on two different levels of the benefit: one for people who are perceived to be unable to work, and one for those who are perceived to be able to work. The latter group was expected to participate in Work Focused Interviews with an employment advisor through Pathways to Work, and attending the interviews and participating in work related activity was necessary to receive benefits at a full level. These policies emphasized the supply-side and take an individual approach to the employment of people with disabilities. This approach oppressed people with disability, because it encourages them to be “normal” and ignores social and institutional factors (Grover, 2007). Part of the problem is that work has been focused on the maximization of profit and competition between individuals, which highlights influence of neoliberalism. These goals did not allow people with disabilities to participate equally in the labor market (Barnes & Roulstone, 2005).

The first part of this chapter reviewed literature that argued that change is needed within the labor market in the United Kingdom in order for people with disabilities to have equal opportunity for participation. While Pathways to Work helps people with disabilities obtain the skills necessary to compete, this approach was ineffective without opportunities available to

people. It is unclear whether the rhetoric of Pathways to Work was consistent with the way that people experience the program. Furthermore, little research has shown whether the policy is consistent with human rights for people with disabilities. Can people with disabilities achieve full and equal participation in society, nondiscrimination, equality of opportunity and the other human rights principles that underpin the CRPD while engaging in welfare to work reform in the United Kingdom? The literature did not offer much hope, as people with disabilities face a number of disparities and they lacked information on programs that have the potential to be of assistance to their participation in the labor market.

The second part of this chapter drew on focus groups conducted with 15 people in Leeds in May and June 2010 to develop themes related to the experiences and perspectives of people with disabilities regarding welfare reform and human rights. The seven themes that were identified are:

- *International and national rights*, which emphasized that people with disabilities had little belief that the Disability Discrimination Act was implemented well or strong enough to protect them in the labor market, and less belief that the CRPD would be an improvement;
- *Welfare reform*, which supported that people with disabilities agreed with the trajectory of welfare reform and moving people who could work off of benefits and into the labor market, as long as support is in place for people who need it;
- *Rights and responsibilities under welfare reform*, which reinforced that beneficiaries understood the concept of rights and responsibilities to mean that they had these

possibilities in the labor market, but also understood that the government had responsibilities of its own to ensure that choices are available to beneficiaries;

- *Policy implementation*, which concerned how welfare reform has been implemented, particularly assessment procedures and communication between Jobcentre Plus and a Pathway to Work provider;
- *Policy communication*, which highlighted that people with disabilities had little knowledge of welfare reform and the different programs available to them;
- *Employer attitudes on capabilities*, which showed that people with disabilities did not think employers recognized their capability within the labor market; and
- *Access and adjustments*, which revealed that people with disabilities were concerned about access and adjustments on the job, had little faith in the DDA, and did not find Access to Work to be beneficial in practice.

As Cameron and the Con-Dems continue welfare reform and replace New Labour programs, including Pathways to Work, indications are that they will continue active workfare and further retrench social rights in the United Kingdom. It was widely acknowledged that the DDA did not have a significant impact as envisioned on the labor market participation of people with disabilities, but people with disabilities, employers, and policymakers in this research did not believe that the United Nations Convention on the Rights of Persons with Disabilities would have an impact on policy in the United Kingdom. As people with disabilities said, from their perspective, disability and disability rights are not central to politics in the United Kingdom. The growing numbers of people and expenditures on disability benefits have relegated the concerns of disability rights so that the mantra “no rights without responsibilities” guides policy related to

welfare reform. Understood on the individual level (the level that New Labour intended), rights and assistance from the State was dependent on individuals fulfilling their responsibility of labor market participation. However, the perspectives offered by people with disabilities and related stakeholders in this research suggest a few lessons that can be learned so that the principles of the CRPD can be better included within welfare reform. These suggest that “no rights without responsibilities” can also be understood in terms of the government’s responsibility. People with disabilities will not have human rights until the government fulfils its responsibilities.

The analysis contained in this chapter showed that a few policies in the United Kingdom had the potential for embodying the rights of people with disabilities, including the “Two Ticks” scheme operated by Jobcentre Plus (which promoted opportunities for people with disabilities by working with employers and providing individualized job advisers), the Work Capability Assessment (which worked to recognize the unique capabilities of individual people with this abilities), and Access to Work (which funded adjustments and removes worries about extra costs from employers). However, the people with disabilities who participated in this research did not experience these in practice, so they needed to be better implemented. Along with putting the programs into practice, communication was a major concern, as people with disabilities agreed with the goals of welfare reform but were concerned with how they were achieve them.

The individual nature of welfare reform should be reconsidered for those policies to embody human rights. The employment of people with disabilities entails more than better training and working with an employment advisor. There is need for the government to address the labor market itself. In an economy that already has a limited number of job openings, placing labor market expectations on people with disabilities may be unrealistic. The government goal of

moving one million people off of incapacity benefits was unlikely to be achieved without additional initiatives and policies to supplement the DDA. The government should pay attention to the demand-side of the market and try to open up new opportunities for people with disabilities. This aligns with the OECD (2009a) recommendation that future reform should also include structural reforms to promote a culture of inclusion and focus on capacity of people with disabilities to contribute to the market. Without corresponding emphasis on demand-side policies, new welfare reform policies are unlikely to have an impact on the employment of people with disabilities.

The next chapter in this dissertation considers the results of this chapter with the results of the chapters on the United States and Australia together. It will identify common and different experiences of people with disabilities in each country and highlight policy pieces in each country that others can learn from.

VII: Welfare Reform in Liberal Welfare States

As Chapter 2 noted, disability employment policies in the United States, Australia and the United Kingdom have been influenced by neoliberal principles, but the countries have also given increased attention to rights for people with disabilities over the past several decades. Moreover, as the OECD (2009a) notes, they are facing the similar social problems of rapidly increasing expenditure on disability benefits, and the low participation rates of people with disabilities in the labor market. The policy approach in each country has been one of active welfare to work, with a focus on preparing individuals for participation in the labor market. However, as Taylor-Gooby (2004) argues, policy responses and implementation often differ because nations have different economic and social contexts despite dealing with similar social problems and have the same goals. That is, although nations may have the same objectives (because of common social problems and the desire to remain consistent with international standards), and similar national policies and legislation (i.e. social security, anti-discrimination legislation, employment programs, etc.), how these measures affect people with disabilities varies from nation to nation.

The preceding three chapters focused on the implementation of employment and welfare reform in single country case studies and identified the unique concerns of people with disabilities within those countries. The first section of this chapter provides an overview of the national welfare to work reforms and national disability rights legislation. The next section compares those case studies to find similarities and differences in the design of and people with disabilities' experiences in national welfare to work policy. These are organized around three primary issues: (i) welfare to work represents a choice between employment and poverty for people with disabilities; (ii) the implementation of welfare to work presents challenges to the

human rights of people with disabilities; and (iii) welfare to work is focused on supply-side policies without consideration of demand-side factors that promote equality of opportunity. With a specific focus on the human rights of people with disabilities, the section discusses welfare to work in liberal welfare states and highlights the tension between human rights and the neoliberal approaches to policy found in each country. It identifies best practices while highlighting areas that each country could address further so as to better meet the rights of people with disabilities. Specific attention is given to additional initiatives that are needed in order for policy is to be more effective.

Table I below summarizes the content of this chapter by providing an overview of the national case studies. The first section of this chapter details the policy reforms that each country has adopted, the population impacted by those reforms, the employment service providers that implement those reforms, and national disability rights legislation and status with regard to the CRPD, which are also contained within the first rows of the table. The last two rows of the table review the themes that were developed following focus group discussions in each country and areas of tension between policy rhetoric and implementation. These are discussed comparatively in the second section of this chapter.

A. **National Policy Overviews**

This section provides a brief overview of welfare reform and the employment services available to people with disabilities in each country. This is intended as a review and summary of critical national features that were discussed in the individual country chapters.

TABLE I: COMPARISON OF WELFARE TO WORK IN LIBERAL WELFARE STATES

Topic	United States	Australia	United Kingdom
Welfare to Work Policy & Overview	Ticket to Work – a federal policy that gives all SSA disability beneficiaries a ticket that they can redeem for employment services and to extend the eligibility for healthcare and other benefits	Welfare to Work – Federal budget amendments that restricted eligibility to Disability Support Pension to only those assessed that is able to work 15 hours or less per week; other beneficiaries are placed onto Newstart Allowance; future reforms have restructured employment services	Welfare Reform Bill – introduced the Employment and Support Allowance which sorts beneficiaries into three groups, depending on their work requirements; all people with a disability that impacts their work participate in Work Focused Interviews , and many receive employment services related to the Pathways to Work program
Population Impacted	All people with disabilities receiving SSI or SSDI on a voluntary basis	People with disabilities assessed as able to work between 15 and 29 hours per week	All people with disabilities receiving benefits; participation requirements based on Work Capability Assessment
Employment Service Providers	Employment Network (EN) – public and private agencies who register with the system and State Vocational Rehabilitation Services	Job Services Australia – network of mainstream and Disability Employment Specialist providers	Pathways to Work – network of services offered through a group of government offices and private providers
International and National Rights	Signed CRPD; Americans with Disabilities Act (1990) prohibits discrimination against people with disabilities	Ratified the CRPD; Disability Discrimination Act prohibits discrimination against people with disabilities	Ratified the CRPD; Disability Discrimination Act prohibits discrimination against people with disabilities

TABLE I: COMPARISON OF WELFARE TO WORK IN LIBERAL WELFARE STATES (continued)

Topic	United States	Australia	United Kingdom
Focus Group Themes	(i) national legislation and discrimination (ii) perceptions of people with disabilities; (iii) accommodations and accessibility (iv) responsibilities of citizens and government (v) dissemination of policy information (vi) the intersection of employment, income support and other benefits	(i) international human rights and national antidiscrimination (ii) the economy and employers (iii) skills, capabilities and quotas (iv) responsibilities of citizens and government (v) employment services and finding employment (vi) getting involved with a service provider (vii) information and communication	(i) international and national rights (ii) welfare reform (iii) rights and responsibilities under welfare reform (iv) policy implementation (v) policy communication (vi) employer attitudes on capabilities (vii) access and adjustments
Key Points Regarding the Tension between Rhetoric and Implementation	(i) Voluntary program (ii) ADA; accommodating workers with disabilities (iii) Employment Network (iv) Disjoint policies; healthcare; benefit planners and policy navigators	(i) Work requirements (ii) Limits of DDA; competition with people without disabilities (iii) Places in Job Services Australia for <i>all</i> people with disabilities; case-based funding (iv) Information on benefits and services	(i) Work Capability Assessment (ii) DDA, valuing diversity and the “Two Ticks” scheme (iii) Work-focused interviews and Pathways to Work (iv) Program information

1. The United States

In the United States, welfare to work for people with disabilities at the federal level is guided by Ticket to Work (TTW), which was adopted in 1999. Under this policy, Social Security beneficiaries with a disability receive a ticket that they can redeem in exchange for

employment services with a provider that has registered with the program to be an Employment Network. Each provider is reimbursed for their services when the beneficiary meets certain milestones or achieves outcomes related to participation in the labor market. The program offers a few incentives for people with disabilities to take advantage of to encourage participation in the labor market, notably extended Medicare services or the chance to buy into state Medicaid plans and expedited return to benefits. However, policy in the United States is not well integrated and numerous incentives and other employment services are operated by various parts of the government or private offices, all with their own rules, and they do not necessarily promote one another. TTW has had a very limited impact, with only a very small number of tickets redeemed. The Employment Network has not developed the way it was anticipated, so many people with disabilities have difficulty locating a provider to use their ticket with. Providers are hesitant to register as an EN because of concerns over funding, and the need to obtain outcomes with a person with a disability before receiving reimbursement; this system restricts who they accept. These issues create a tension between policy as it is implemented and has developed and the rhetoric that surrounds the Employment Network as it was conceived.

Policy in the United States differs from policies in Australia and the United Kingdom in two primary ways: healthcare and the voluntary nature of TTW. As the case study of the United States shows, eligibility for health care is a concern of people with disabilities, because the United States does not have a universal healthcare system. People generally receive healthcare through employment, and eligibility for public services is typically tied to eligibility for benefits or means-tested. Thus, maintaining eligibility for healthcare or obtaining employment that provides healthcare benefits is important for people with disabilities as they consider moving

from welfare to work. People in Australia and the United Kingdom largely do not have the same concerns, although there are cases where employment can restrict benefits for additional healthcare services (i.e. certain prescription coverage). The voluntary nature of TTW is also unique. People with disabilities are given the choice whether to use the ticket or not, and Employment Networks have a similar choice about whether to accept a ticket to work with an individual (the following subsections discuss the implications of this difference).

The United States has signed, but not ratified, the CRPD, but it does have a history of protecting rights for people with disabilities. The Americans with Disabilities Act of 1990 (and the Americans with Disabilities Act Amendments Act of 2008 that clarified some of the definitions under the law) protects people with disabilities from discrimination, and one of the purposes of that Act was to increase their employment rate. The ADA is a civil rights law that prohibits discrimination in all phases of employment and the employment process. Employers must provide reasonable accommodations to workers and job candidates unless they can show that providing an accommodation would be an undue hardship. This includes equipment people with disabilities need in order to perform a work function, flexible work schedules, telecommuting, and more. The National Council on Disability (2004) showed that the ADA has increased equality for people with disabilities in a number of domains. However, it has not increased their labor market participation rates (Donohue III, et al., 2008; Karger & Rose, 2010). The ADA is focused on equality within the labor market, but does little to create additional opportunities for people with disabilities seeking employment (Blanck et al., 2004; Degener & Quinn, 2002). The United States would benefit from additional legislation that promoted additional opportunities to supplement the ADA.

The ADA is unique among disability policy in the United States because it views people with disabilities as workers. This contradicts other areas of policy, notably Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) benefits, because people with disabilities have to show they are unable to work in order to receive benefits.

2. Australia

Reforms that impacted people with disabilities in Australia began with the Welfare Reform Amendments to the 2005 federal budget and additional reforms have continued to shape welfare to work in Australia. The 2005 reforms work by restricting eligibility for the Disability Support Pension to only those people who are assessed as able to work less than 15 hours per week, rather than 30 hours before. Those assessed as able to work between 15 and 29 hours are placed onto Newstart Allowance, which is associated with mutual obligations, meaning that beneficiaries have to participate in work related activities in order to continue receiving benefits. These individuals work with providers in Job Services Australia (JSA), and can participate in a wide range of training, education, skills development and professional development activities, along with job search assistance. Those people who are still on Disability Support Pension, can participate on a voluntary basis, if a provider will accept them and there is funding available.

Additional reforms in March 2010 restructured Job Services Australia, which consists of mainstream services and Disability Employment Specialist (DES) providers, who typically work with people who need more services in order to obtain employment. These reforms remove the cap on the number of places available in DES for people who do not have mutual obligations (i.e. recipients of Disability Support Pension). Other reforms implemented case-based funding in

Australia, where outcomes are the focus of employment services, because they are paid for their services based on the achievements of clients within the web market. This has led to questions about whether everyone receives the same levels of services, which reveals tension between the way JSA was designed in rhetoric (increased employment services for people with disabilities) and its implementation (places for people with disabilities are not available on an equal basis).

Australia is a country that has placed more emphasis on social justice than rights and does not have a Bill of Rights. Still, it has ratified the CRPD, and the Government has tried to align itself with human rights principles, notably in the 2010 National Disability Strategy. The Disability Discrimination Act (DDA) of 1992 provides antidiscrimination legislation for people with disabilities in Australia and strives to increase equality within the labor market. The DDA makes provisions for reasonable adjustments for employees with disabilities who need them. Similar to the United States, that DDA has not had an impact on employment rates of people with disabilities in Australia. Macali (2006) notes that the problem is that the legislation prohibits discrimination, but it does not create additional opportunities for employment.

3. **The United Kingdom**

The Welfare Reform Bill of 2007 reformed employment services and disability benefits for people with disabilities in the United Kingdom. That bill introduced a new disability benefit called the Employment and Support Allowance. All new applicants for disability benefits (and the existing beneficiaries are slowly moved over to the new benefit) take an assessment called the Work Capability Assessment (which embodies human rights and rhetoric with its focus on individual capabilities, but in practice is based on a medical assessment), which is used to determine which level of benefit a person gets. There are three levels: the first level is for

people who are determined that their disability does not impact their ability to work, so they are placed onto the unemployment benefits, which come with work requirements such as applying for jobs every week. Another level is for people with disabilities who are not expected to work and do not have work requirements in order to receive benefits. In between these is another group known as “progression to work” which consists of people with disabilities who are required to undertake work related activity in order to receive benefits because it is anticipated that they will join the workforce in the near future.

Employment services are provided through a program known as Pathways to Work, which can be public, private or voluntary agencies that contract with the government to provide services including training, and job search/placement. The number of Pathways to Work providers in a local area is limited by government contracts (there are only a few providers in a given area), so people with disabilities have less choice over providers in the United Kingdom than through the Employment Network (at least as it was envisioned) in the United States and Job Services Australia. Every beneficiary, participates in a Work Focused Interview with an individual advisor, and depending on what the person in the advisor discussed as a plan for employment, the Work Focused Interviews could expand to a series of up to six. Attendance at these interviews is mandatory and benefits are dependent on that participation; beneficiaries can earn a higher level of benefit for participating. Employment Advisers determine whether an individual is meeting his or her work responsibilities. Although evaluations of the program nationally are limited, evaluations of Pathways to Work as a pilot project show that it did have a positive impact on increasing employment, but did not have an impact on decreasing the number of, or expenditures, on disability benefits. Providers are rewarded for achieving outcomes,

which, similar to the other countries, can lead to tension between implementation and rhetoric as service providers are encouraged to focus their attention on those closest to the labor market.

The United Kingdom has signed and ratified the CRPD. People with disabilities are protected from discrimination through the 1995 Disability Discrimination Act, which has been amended several times since then and replaced by the Equality Act in October 2010. As in the other countries, the DDA requires employers to provide reasonable adjustments, depending on the impact that an adjustment would have and the resources available to an employee. Employees can also use the Access to Work funding scheme to pay for many adjustments that they need. In general, employers, especially smaller ones, have poor knowledge about the DDA and do not have a good understanding of their obligations under the Act (Roberts, et al., 2004; Thornton, 2003). Discrimination claims are difficult to win and expensive for people with disabilities. Since its inception, the DDA has had little positive impact on the experiences of people with disabilities as they seek employment (Bell & Heitmuller, 2009). Service agencies do not promote best practices under the DDA to employers (Goodley & Norouzi, 2005).

B. Policy Challenges and Tensions

The individual country case studies summarized in the preceding section contain a number of tensions between the human rights approach to disability and implementation of national policies that are detailed below. This section explores the similarity and differences between national implementation of welfare to work, and includes recommendations for improving policies regarding three interrelated primary themes: (i) welfare to work and poverty for people with disabilities; (ii) welfare to work in practice; and (iii) welfare to work and the need for a simultaneous focus on supply-side and demand-side policies.

1. **Welfare to work and poverty for people with disabilities**

One of the central tenets of neoliberalism is that paid employment is the best way out of poverty, and the emphasis on employment in order for an individual to have a decent standard of living is reinforced by the role that disability benefits have within welfare to work. This can be seen in several aspects of employment policy for people with disabilities: disability benefits are paid at a low rate that keeps people in poverty or near to the poverty line unless they can work full-time; people with disabilities receiving benefits face restrictions on the amount of income they can receive; eligibility for benefits and employment services are dominated by medical assessments; and employment services must achieve outcomes in order to receive funding, so they focus efforts on a select few beneficiaries participating in their programs.

Disability benefits in each country are paid at a very low rate. For instance, as of April 2011 in the United States, the average monthly benefit for SSI beneficiaries of working age (18-64) was \$516 and the average monthly benefit for SSDI beneficiaries was \$1068.90 (Social Security Administration, 2011). Over the course of a year, this equals an annual income of the \$6,192 and \$12,826.8, respectively. The 2011 federal poverty guidelines are set at \$10,890 for an individual, though several other assistance programs use percentages greater than this amount (125%, 150%, 185%) in order to determine eligibility for low income programs (Department of Health and Human Services, 2011). The maximum benefit rate for single pensioners in Australia between 20 March 2011 and 19 September 2011 was \$729.30 per fortnight (FAHCSIA, 2011). The Melbourne Institute for Applied Economic and Social Research (2011) shows that the poverty line for this period is \$444.71 per week (\$889.42 per fortnight). In the United Kingdom, the Employment and Support Allowance rate for a single person in 2011 after the assessment

phase is £99.85 for people receiving the support form of the allowance, and £94.25 for people with work related activities (Directgov, 2011). The poverty line in the United Kingdom for 2009-10, was set at £124 for a single person (Child Poverty Action Group, 2011). Benefit levels show that people with disabilities cannot maintain a standard of living beyond the poverty line while on benefits; they must work in order to do so.

The United States, Australia and the United Kingdom allow beneficiaries to work a little to supplement their benefits. However, the amount they can work is very limited before the state begins to reduce or withhold benefits. Although the withholding rules vary and can be complex (a common rule is that benefits are reduced by one dollar for every two dollars earned above a limit), they generally only benefit people who are able to work many hours per week. Furthermore, disability benefits are means tested, which prevents people with disabilities from accumulating assets and savings, unless they are independent of the benefits system. Therefore, the design of disability benefits encourages people to either severely restrict their earnings and not participate in the labor market (and remain in or near to poverty), or work as close to full time as possible; anything in between often does not make financial sense. For instance, people with disabilities in the focus groups in the United States discussed that they would restrict their earnings so that they remained eligible for full benefits, rather than working as few more hours per week to the maximum extent they were able. The design of these policies creates tension between the human rights approach to disability policy and neoliberal influences. One of the principles underpinning the CRPD is respect for and acceptance of disability as part of human diversity. However, the implementation of welfare to work does not respect differences; rather, it

“normalizes” work by conceiving of and emphasizing employment as full-time paid labor (this is also discussed below in the section on outcomes and creaming).

As Chapter 2 notes, Mitra (2009) argues for a system of partial work benefits to ease the dichotomy between full-time labor or very little work. Under such a system, people could work as much as they want/are able, but still be eligible for benefits that would bring them up to a minimum standard of living (one that is higher than currently provided). Mitra argues that such a system would benefit people with disabilities, because they would have more control over their work and be able to participate to the extent they are able without jeopardizing their benefits. It would also benefit governments, because more people with disabilities would work, and overall benefit expenditures would decrease. For some people with disabilities the amount they are able to work might be full-time and for others it might be 15 hours a week, but a system of partial benefits would provide a better minimum standard of living while increasing employment overall. The CRPD notes the importance of social protection, and a system of partial benefits would help to provide that.

Mitra (2009) also noted that case credits such as the Working Tax Credit in the United Kingdom can be important to supplement the earned wages of people with disabilities. However, this tax credit is for people who work 16 hours per week or more, a population that would no longer be eligible for benefits after a year of working at this level. Policy should account for the high costs associated with disability and not only reward people with work capabilities. Those working a moderate number of hours per week (or not at all) could have access to similar income initiatives to provide social protection. Rather than emphasizing in-work benefits, policies could enact additional allowances to account for the extra cost of disability (which the CRPD

mentions) independent of participation in the labor market. For instance, the United Kingdom has the Disability Living Allowance. The allowance is not means-tested, so it does not erect policy barriers that people with disabilities need to consider before working, but it does provide social protection.

People with disabilities noted in the focus groups that they were concerned that employment would have an impact on other benefits, including local tax concessions, transportation benefits and prescription coverage. Additionally, people with disabilities were concerned that if they received income while on benefits, it would show the government that they are capable of working and they would lose their benefit eligibility. It was confusing to them that the benefits system (which was designed for people with disabilities who were not expected to work) emphasizes participation in the labor market to meet their needs. Each country has introduced rules that allow beneficiaries to attempt employment and receive expedited reinstatement to benefits if needed. While these rules are a step in the right direction, they still emphasize a choice between labor market participation or remaining on benefits, with no partial benefits or recognition of moderate levels of employment that may be more appropriate for some people with disabilities. People with disabilities recognized that it required close to full-time levels of employment in order for labor market participation to be beneficial because of the range of benefits they could lose if they worked at a more moderate level. In practice, the design of disability benefits reinforces the neoliberal idea that employment should be full-time. This is a challenge for human rights, because benefits are largely a “all or nothing” system, without room for consideration of individual differences and capabilities.

The intersection of eligibility for disability benefits with other areas of policy was especially a concern in the United States, because healthcare coverage is often linked with eligibility for benefits. This was not a concern in Australia and the United Kingdom, because those countries have a system of universal healthcare coverage. People with disabilities are encouraged to remain eligible for benefits and restrict their income in order to receive Medicare or Medicaid coverage. Ticket to Work introduced extended Medicare coverage and allows states to offer buy-in programs for Medicaid services. These developments are a promising development in disability policy in the United States, but, as highlighted in the next section, people with disabilities need more information in order to understand the programs that are available. As Wittenburg and Loprest (2004) argue, it is difficult to provide employment services to a population that has to show the inability to work in order to be eligible for benefits initially. In this way, people with disabilities in the United States must show that they cannot work and have low income and assets in order to be eligible for benefits. That is, policy urges them to be near poverty in order to receive services like medical coverage and engage with employment services. In terms of healthcare coverage in the United States, people with disabilities would benefit from a universal healthcare system so that employment was not linked with healthcare and the need for health care would not impact their decision to work.

Australia and the United Kingdom use medical assessments to determine the population that has work requirements under welfare to work policies. People with disabilities who are assessed for a certain amount of hours per week do not have a choice about participating in employment or labor market activities. For example, the United Kingdom uses the Work Capability Assessment (WCA) to determine the requirements that a beneficiary has and his/her

level of support under the Employment and Support Allowance. The WCA is an example of the tension between policy rhetoric and implementation that Chapter 2 noted. The Government in the United Kingdom points to the use of the Work Capability Assessment (WCA) as a positive development in their approach to welfare to work. They argue that, by focusing on capability, it takes a positive approach to disability and focuses on what people can do rather than what they cannot. This is consistent with the rhetoric and language of the human rights principle on respect for difference and acceptance of persons with disabilities as part of human diversity and humanity. Many people with disabilities in the focus groups were frustrated by the assessments and did not find them helpful or did not think they were much of a change from before. In practice, the WCA is still a medical assessment. Using the opinion of medical professionals to dictate what expectations should be placed on a person with a disability reflects a medical model approach that does not understand the other barriers to employment. The CRPD embodies a social model approach to disability, and relying on the assessments of medical professionals contradicts this understanding of people with disabilities. Furthermore, when the WCA is used to determine an individual's work expectations, it removes full individual independence and self-determination regarding labor market participation. The rhetoric surrounding the WCA uses language that promotes human rights by taking an individual approach to disability and promoting ability over disability, but in practice and implementation, the WCA is a challenge to human rights for people with disabilities.

The assessments in both Australia and the United Kingdom divide people with disabilities according to their work expectations. Grover and Piggott (2010) refer to this as social sorting. People with disabilities who are unlikely to achieve significant amounts of work are not

given work expectations or included in welfare to work schemes. Rather, they remain eligible for disability benefits, which perpetuates their position as low income beneficiaries. On the other hand, people with disabilities who are assessed as having work capabilities engage in the welfare to work employment services, and work with those services to participate in the labor market. This arrangement represents another tension between the influence of neoliberalism on national policy and human rights. Neoliberal ideas about worker efficiency and capabilities are used to distinguish between people who are required to engage with buffer to work and people who are not. This system discriminates against people with disabilities who are assumed to have less labor market capability, and denies them the same opportunities given to other people with disabilities. Ticket to Work in the United States is a voluntary program, but it produces the same dichotomy. People with disabilities have difficulty finding a provider to work with in the Employment Network, unless providers think they will be easy to serve and achieve an outcome for. The focus on outcomes within welfare to work programs is a point that is developed further in the next section of this chapter.

In order to be more effective, welfare to work needs to address issues of poverty and low income within national policy. This includes implementing better benefit rates and allowing partial work capacity, promoting equality for all people with disabilities within welfare to work, and better integration of disability benefits so that people with disabilities are not afraid of losing them. Within welfare to work policies, there has been a focus on full-time employment, and people who are not expected to work close to full-time are not encouraged to work. A better structure would recognize the differences that people with disabilities have and allow them to work to their individual capacities.

2. **Welfare to work in practice**

People with disabilities face a number of challenges with the way that welfare to work has been implemented. The previous section noted one of these: employment services under welfare to work are primarily concerned with outcomes. Another challenge for people with disabilities within welfare to work is accessing adequate information on employment services and disability benefits. Welfare to work would be more effective if it was implemented in a way that promoted the equality of all people with disabilities and better integrated with other aspects of national policy.

Welfare to work is intertwined with disability employment services in each country; a network of employment service providers has been developed or adapted to provide services to beneficiaries impacted by welfare to work reform. Soldatic (2009) argues that institutions such as disability employment services have a large role to play in allowing people to reach their full capacity as humans, and therefore “have the power to undermine and dismiss our human potential” (p. 6). She agrees with Nussbaum’s (2001, 2004) assertion that public policy should support people and allow them to develop to their full potential. This assertion is consistent with human rights principles. Article 27 of the CRPD notes that people with disabilities should have effective access to training programs, work incentives, return-to-work services and placement services. In order to have effective access to these, people with disabilities need information on them and employment providers need to be able to refer them to other programs or policies within the employment context. The services that have developed under welfare reform use the language of human rights to portray their services as beneficial to individuals. However, those human rights need to be embodied in the policy processes of these services so that people with

disabilities can fulfill their potential. As discussed below, the influence of neoliberalism eschews the processes used within employment services in favor of a focus on outcomes.

In the United States, Ticket to Work is a voluntary program. The Employment Network allows any agency to register to provide services under the program. It was designed to increase the choice that program participants have of provider organizations and the variety of services available to beneficiaries. The design of this program is consistent with the first human rights principle on autonomy and self-determination for people with disabilities. However, in practice, this is not how it has worked. Service providers are hesitant to sign up to be an Employment Network and the network is not nearly as large as anticipated and offers limited choices to ticket holders. In the focus groups, people with disabilities were frustrated by the difficulty they had finding a provider to work with. Providers are not willing to join a program with the current payment structure, where they may have to wait long periods of time before receiving a reimbursement, and may never receive one for an individual if the individual does not meet outcomes, or does not work full-time. Therefore, the implementation of the program is not consistent with how it was conceptualized, creating tension between the human rights approach that it embodies and the need for outcomes that limits development of the Employment Network. Similar to the use of medical assessments in Australia and the United Kingdom, the structure of the Employment Network creates a dichotomy of people with disabilities based on perceived work capabilities.

The emphasis on outcomes is also a significant factor in Australia and the United Kingdom. For instance, Job Services Australia provides employment services to people with disabilities in Australia. Many of these services are provided by Disability Employment

Services/Disability Employment Network and participants work with an individual advisor, who is experienced in working with people with disabilities and knows the programs and services available that might be beneficial. This provides respect for disability and the recognition that people with disabilities can contribute to the labor market, which are consistent with that human rights approach. However, most of the places in these programs are set aside for those people who were assessed as having mutual obligation. The spaces for people who are on Disability Support Pension are limited. Because people who are still on the pension are those who were not assessed as having work capability, this arrangement means that people with more severe disabilities do not have the same opportunities. This is further exacerbated by the funding structures, which pays providers for meeting outcomes, similar to the situation in the United States, so providers are encouraged to “cream” participants, directing services to those who are closest to the labor market (Pathways to Work providers in the United Kingdom operate under similar conditions, provider agencies are paid based on outcomes). So the existence of advisers that work specifically with people with disabilities is a positive step for human rights, within policy, however, it only respects the difference of a small portion of people with disabilities and leaves the rest with a lower level of employment services. Human rights call for *all* people with disabilities to receive equal treatment, but the focus on outcomes without necessary attention to the processes, structures and attitudes does not make this feasible for employment service providers. Concern over “creaming” is a notable issue internationally (OECD, 2009b; Parker, et al., 2011), and welfare to work does not have provisions to promote equality for everyone. Rather, the need for outcomes creates a situation that actively promotes the practice of creaming.

Redefining outcomes would help to ensure that the welfare to work embodies human rights for people with disabilities. Measurable outcomes in employment for people with disabilities have been considered successful when there is a rise in employment numbers or a decrease in welfare recipients (Stapleton & Burkhauser, 2003) or when an individual with a disability gets a job – any job (Chenoweth, 2008). Less attention however, has been given to determining if the work is meaningful and sustainable (Bill, et al., 2004), if the work environment is flexible (Schur, et al., 2005; Women with Disabilities Australia, 2005), if there are non-discriminatory attitudes and equal opportunities that create an environment of social acceptance (Parker, 2007; Schur, et al., 2005), or if there is access to transportation, healthcare, and support services people need to work (Cook, et al., 2008; Dempsey & Ford, 2009; Whitehead, et al., 2009). Welfare to work and employment services need to consider these factors, which promote human rights under the CRPD, as part of a measure of successful outcomes. Employment outcomes are successful when these factors are promoted within labor market participation. Labor market outcomes for people with disabilities mean little to them if work is not appropriate and they do not have the supports they need to succeed.

Welfare to work is also more successful where people with disabilities have access to the information they need about policies. In the focus groups, people with disabilities said they lacked information and had difficulty learning about policies. This included difficulty locating a provider to work with (for instance, people with disabilities expressed frustration in the United States and Australia that they could not find an appropriate provider) and trouble accessing services from other government programs (for example, people with disabilities in the United Kingdom had difficulty receiving assistance through Access to Work in order to find

accommodations, and were frustrated that welfare to work advisers could not assist them with this). The CRPD explicitly notes the importance of information to people with disabilities in Article 21. The CRPD also notes that people with disabilities should have effective access to programs and have room to exercise self-determination, which cannot happen if they do not have the knowledge to make informed choices. Literature also recognizes that the arrangement of disability policies can be confusing and it takes good information on the policies that are available in order to navigate services (Wittenburg & Favreault, 2003). The United States has introduced benefits specialists and planners to assess people with disabilities and ensure that they take advantage of the programs that are available to them (Boeltzig, et al., 2010). A particular area of concern that people with disabilities did not fully understand was how employment would impact their other benefits. This was mentioned in the previous section, but is an important area where people with disabilities would benefit from additional information.

Access to Work is a program in the United Kingdom that promotes human rights by offering financial support to employers in order to make reasonable adjustments for people with disabilities. Access to Work provides an example of how welfare to work would be more effective if it integrated with other policies and employment advisers had additional information to provide people with disabilities. This program is not specific to welfare to work, but it is relevant to people with disabilities who are seeking employment. People with disabilities in the United Kingdom said that they had difficulty accessing the program and that their advisors did not know much about it. If advisers were better informed, they could more effectively provide information and advice to people with disabilities and potential employers. The difficulty is that welfare to work and Access to Work are operated by different offices within the

government, though increased integration would better promote human rights by incorporating a wider range of employment services within welfare to work for (more analysis on the need for welfare to work to move beyond supply-side policies is included in the next section). Similarly, the United States and Australia have systems of tax breaks and funding that employers can receive as compensation for adjustments they make. Welfare to work advisers in his countries could benefit from additional knowledge on these provisions so that they could more effectively work with potential employers.

Employment service providers within welfare to work play an important role for people with disabilities. The way employment services have been implemented in the United States, Australia and the United Kingdom place focus on outcomes and encourage providers to “cream” beneficiaries. In addition, people with disabilities and the providers who work with them lack information on other national programs and policies and the way of the employment would impact their other benefits. Steps need to be taken to ensure that welfare to work is implemented and integrated better so that they can be more effective for people with disabilities.

3. **Welfare to work: supply-side and demand-side policies**

In each country, welfare to work policy is primarily concerned with supply-side labor market policies for people with disabilities. While the United States, Australia and the United Kingdom use different approaches to who is impacted by welfare reform, the programs operate in similar ways: primarily by addressing individuals and preparing them for participation in the labor market without addressing the market or the employment context. The focus is on preparing individuals for labor market participation as quickly as possible in order to obtain outcomes. Although national antidiscrimination legislation is in place in each country, it does

little to create demand for people with disabilities as workers. Efforts to create demand for people with disabilities as workers, increase their employment opportunities and supplement national antidiscrimination legislation is needed for welfare to work to have a greater impact on people with disabilities.

Although the policies are designed to prepare people with disabilities for the labor market, people with disabilities were concerned with the training and education they received through these programs. They did not feel that these programs offered enough opportunity for development; rather, they push people with disabilities to accept any job, so that the providers can achieve outcomes. Again, as mentioned throughout this chapter, the focus on outcomes has an impact on the services that are received. The human rights approach calls on policy to promote individual development and exercise choice about their employment opportunities, which is something that training through these programs have the potential to provide. On the other hand, a central idea to neoliberalism is that *any* job is worth having, regardless of the conditions, hours or remuneration (Peck & Theodore, 2000; Soldatic, 2009), so providers are compensated when they achieve outcomes that place people with disabilities into the workforce. This is the experience that people with disabilities have, which represents another tension between human rights and the neoliberal aspects of welfare to work.

The first section of this chapter showed that the United States, Australia and the United Kingdom all have strong antidiscrimination legislation that promotes the quality of people with disabilities within the labor market. However, one of the limitations of this approach is that it does not create opportunities for people with disabilities or change attitudes of employers or the public. People with disabilities in each country discussed that they felt marginalized by

employers, especially when compared to people without disabilities. People with disabilities believed that employers consider them to be more expensive to hire because they may need accommodations or adjustments in order to participate in the workplace. People with disabilities in each country emphasized the importance of accommodations in the labor market, but also noted that employers were hesitant or are afraid to provide them. Antidiscrimination legislation in each country includes the provision for accommodations or adjustments for people with disabilities who need them, and the cost of accommodations is up to employers. These provisions recognize that there are cases where people with disabilities need adjustments in order to have equal opportunities on the job. Each country also has programs, grants or tax breaks available to employers to assist with the cost of accommodations, though not all employers know about them and they can be difficult to access. Therefore, antidiscrimination in each country is consistent with the human rights principle of nondiscrimination and requires employers to make accommodations, which is specifically included in the CRPD (Article 27, para 1(i)). It promotes equality, but does little to address equality of opportunity for people with disabilities. Bagenstos (2004) argues that this is part of the reason why national anti-discrimination laws have not then able to increase labor market participation for people with disabilities; antidiscrimination legislation is focused on equal treatment, but does not address deep-rooted structural barriers to employment that need to be addressed in order to create equality of opportunity. Additional initiatives that do address this are needed to supplement antidiscrimination legislation.

Initiatives to promote equality of opportunity for people with disabilities include efforts to create demand for people with disabilities within the labor market. This includes the policies and programs that have been designed to change the attitudes of employers so that people with

disabilities are valued as part of a diverse workforce, which includes promoting the skills and capabilities of people with disabilities. For instance, Jobcentre Plus in the United Kingdom operates a program known as the “Two Ticks Scheme” that promotes equality of opportunity and respects people with disabilities for their own individual skills and capabilities. Businesses voluntarily join the program to show their commitment to the employment of people with disabilities. In particular, they pledge to grant an interview to any applicant with a disability who meets the minimum qualifications of the job and to assess them on their capabilities. This program increases access to employment opportunities (which people with disabilities in focus groups said were difficult to find, particularly when competing against people without disabilities), but does not grant a person a job because of their disability. The scheme is not a quota system, but it does level the playing field so that people with disabilities have more opportunity to showcase their skills. “Two Ticks” is not a component of welfare to work, but it does form part of the policy context in which welfare to work operates. In conjunction with the DDA, this scheme promotes equal opportunities for people with disabilities in the labor market. Two Ticks is not sufficient or far-reaching, but it is a start in the right direction to promoting human rights for people with disabilities because employers judge them on capabilities alone.

Initiatives like “Two Ticks” are also helpful, because they can do what antidiscrimination cannot: help to influence employer attitudes. People with disabilities who participated in focus groups were concerned with the normalizing nature of work. In particular, they were concerned that businesses did not value diversity or want people with disabilities in their workforce because of fears that they would have higher costs. People with disabilities thought that businesses need more exposure to disabilities and argued that employers can’t understand that people with

disabilities had capabilities and skills that could be useful in the workforce. One of the challenges for the human rights approach is to promote the inclusion of people with disabilities in integrated workforces, which implies that the business community needs training and education about people with disabilities and what they can bring to the labor market. Efforts to promote the skills of people with disabilities and to encourage businesses to value people with disabilities as part of a diverse workforce are crucial for insuring equality of opportunity so that people with disabilities have equal chances within the labor market.

In order for welfare to work to be more successful and incorporate a human rights approach to disability, a wider focus is needed. The OECD (2009a) has noted the need for simultaneous attention to structural reforms alongside active workfare. Reform needs to consider demand-side policies alongside supply-side in order to be effective as well as to remove barriers that people with disabilities face to labor market participation, including structural policy barriers like disability benefit rules. In their comparative analysis of welfare reform in liberal states, Pawlick and Stroick (2004) found that the primary goal underpinning these changes concerns moving the individual towards self-sufficiency, especially in terms of employability. There is little interest in market restructuring but rather a strong emphasis on the design of employment-oriented social policies. In order for reforms to be effective in moving people to higher levels of labor market participation, they need to adopt a widespread approach that incorporates supply-side and demand-side policies, promotes equal opportunities and addresses structural barriers. The neoliberal approach to welfare to work that focuses on supply-side policies and emphasizes poverty, outcomes and creaming does not account for additional barriers within the labor market, and will have difficulty improving labor market participation of people with disabilities.

Neoliberal welfare to work could be more effective by paying more attention to factors such as the lack of enough good jobs and the increase in insecure employment if it wants to address the well-being of citizens (Silver, et al., 2005). One of the key concerns for people with disabilities when they move from income support benefits and into employment is a deep sense of insecurity (Parker & Cass, 2005) and the transition encompasses more than the individuals' level of impairment and functional limitations. Factors such as employer's attitudes, labor market conditions, availability of workplace accommodations and prior employment, are all part of the broader context that must be considered when designing disability policies (Cook & Burke, 2002). It is important to evaluate employment policy initiatives in terms of their contribution to advancing self sufficiency, independence, inclusion and integration in addition to trends in labor market activity (Blanck & Schartz, 2002), which are the policy principles and employment objectives are also found within the United Nations Convention on the Rights of Persons with Disabilities.

As Bickenbach (2001) argues, national disability policies are typically piecemeal and reactionary rather than an integrated part of social policy, which is what the CRPD demands. In order for human rights to be embodied in welfare to work reform, policies need to consider initiatives that promote the demand side of employment for people with disabilities so that they have the options within the labor market to move into from welfare to work programs. As noted above, additional policies that promote equality of opportunity for people with disabilities are needed to supplement the equality and nondiscrimination promoted by national antidiscrimination legislation.

C. **Conclusion**

This chapter has reviewed welfare to work policies in the United States, Australia and the United Kingdom and identified similarities and differences between them that have an impact on people with disabilities. These are organized around three primary issues: (i) welfare to work represents a choice between employment and poverty for people with disabilities; (ii) the implementation of welfare to work presents challenges to the human rights of people with disabilities; and (iii) welfare to work is focused on supply-side policies without consideration of demand-side factors that promote equality of opportunity.

The primary divergence in the policies is that Ticket to Work is a voluntary program, while welfare to work in Australia and the United Kingdom is guided by medical assessments. Of the two approaches, welfare to work as designed in the United States holds greater promise for promoting human rights for people with disabilities. Australia and the United Kingdom could improve their policies by incorporating more flexibility for individuals to exercise individual autonomy, both regarding entering the labor market and welfare to work programs and activity within the programs. Despite the approach national governments take, the neoliberal influence on policies reinforces that people with disabilities need to work in order to have a decent standard of living. Welfare to work perpetuates poverty for people who are not able to engage in full-time paid employment.

The United States' Employment Network is an example of a policy that aligns well with human rights in rhetoric. It promotes individual autonomy and choice over participation. However, it is not implemented well. People with disabilities have very limited choice, primarily because the Employment Network needs to achieve outcomes in order to be reimbursed for their

services. The focus on outcomes is also a concern in Australia and the United Kingdom. In practice, the focus on outcomes encourages programs to “cream” participants and focus on those easiest to achieve outcomes with. Australia and the United Kingdom have specialist providers for people with disabilities, which is helpful in ensuring that advantage to respect and understand the needs of people with disabilities and no odd to work with them. But the pressure to achieve outcomes encourages them to focus on a minority of people with disabilities within welfare to work.

Additional initiatives and/or information about promoting accommodations for and promoting the skills and capabilities of people with disabilities are needed, in all countries, to supplement national antidiscrimination legislation and create a policy environment that equalizes opportunities for people with disabilities. Until equal opportunities for people with disabilities are achieved, welfare to work is unlikely to have much success in moving people from benefits into the labor market. Additionally, these initiatives need to integrate with other policies so that employment advisers have better knowledge of them and the people within welfare to work are better able to take advantage of them. A more widespread approach is necessary for human rights to be promoted within national policies regarding the labor market for people with disabilities.

Governments in these three liberal welfare states use the argument that people have to be forced/encouraged to work, primarily because of unsustainable levels of benefit expenditures (OECD, 2009a) and the belief that unemployment among beneficiaries is a moral problem with an individual’s work ethic or motivation. However, people with disabilities in all three countries were clear that they wanted to work and such sentiments have been well supported in the literature (Abraham & Stein, 2009; Drake, Skinner, Bond, & Goldman, 2009). This counters

notions that people on welfare are “lazy” or “morally at fault” for not participating in the labor market. People with disabilities want to work, but many encounter additional structural and attitudinal barriers. That OECD report (OECD, 2009a) represents a shift in their perspective towards employment for people with disabilities from one focused on activation policies (e.g. OECD, 2003) to one that simultaneously addresses structural issues. National governments need to incorporate a more widespread approach into welfare to work then focusing only on supply-side policies. Even in the present economic context, countries must implement both short-term strategies that seek to retain, recruit or reintegrate workers with health conditions or with a disability; as well as continue to implement wider structural reforms that promote capacity rather than incapacity (OECD, 2009a). The need for a culture of inclusion of people with disabilities in the labor market was the main policy message at a recent OECD High-Level Policy Forum on Sickness, Disability and Work.

At that Forum, the Business and Industry Advisory Committee to the OECD (2009a) notes that although governments must recognize the important role of employers, the private sector cannot take over the responsibility of the State and that a variety of stakeholders (including employment agencies, insurance companies, medical professions, community workers, government benefits systems and employers) must work together to achieve employment outcomes. Additionally, there needs to be a highly flexible labor market, strong incentives for all stakeholders involved in employment and benefit systems, and a focus on retention and reintegration. Similarly, the United States Agency for International Development (2009) suggest that successful integration of persons with disabilities requires government to philosophically identify with a rights-based approach to disability; as well as develop the

institutional capacity to promote, facilitate and support the design, implementation, monitoring and evaluation of educational and vocational skills development and employment-related programs.

The existence of welfare to work and disability benefits in these countries shows the countries' commitment to human rights within the labor market for people with disabilities, but analysis of the implementation of these is necessary for an informed inquiry regarding consistency of these policies with the CRPD. While these countries have programs in place to promote employment and provide social protection to people with disabilities, the CRPD calls for these programs to be equal to what is offered to and required of others. The implementation of welfare to work in these countries leaves many people with disabilities outside of welfare to work and labor market responsibilities. Many people with disabilities continue to be treated differently within policy in these countries. This is not consistent with the CRPD, which emphasizes full inclusion for people with disabilities in policy. However, this is not to argue that all people with disabilities should be held to equal welfare to work standards as people without disabilities. Placing work requirements on everybody does not make sense until there are fundamental changes to the policy contexts that remove barriers to participation for people with disabilities.

Removing barriers within the labor market is necessary so that equality can be achieved. Removing barriers and promoting opportunities would increase equality within the labor market so that people with disabilities could better be able to pursue employment. Equality within the labor market is, in turn, necessary before welfare to work can be equally applied to everyone. Specifically, this means better enforcement of antidiscrimination legislation; removal of

structural/policy barriers pertaining to benefits; development of additional programs to fund accommodations and adjustments; increased accessibility of transportation, housing and workplaces; better sources of information on national policy that is available; a shift in employer in public attitudes about people with disabilities as workers; and a less rigid definition of work that accounts for the varying levels of employment that are feasible for individual people with disabilities. While this dissertation has explored many of the challenges that people with disabilities face within welfare to work, it is important to remember that welfare to work is situated within a national policy that must be addressed before people with disabilities can achieve equality in the labor market, through welfare to work or on their own.

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APPENDICES

TABLE II: CODEBOOK FOR ANALYSIS OF THE FOCUS GROUPS

Code	Definition
ABI	Applies to data segments provided by a participant with an acquired brain injury
ASD	Applies to data segments provided by a participant with an Autism Spectrum Disorder
Assess	Applies to data segments that refer to assessment procedures
Autonomy	Applies to data segments that explain whether a participant feels autonomous in national policy and/or employment programs, especially the extent to which s/he is able to make decisions concerning the future
Barriers	Applies to data segments that explain the barriers a participant encounters when seeking employment (use for all barriers except for discrimination or differential treatment [DiscDiff], community barriers [CommBar] or policy barriers [PolBar])
Benefits	Applies to data segments where a participant mentions the influence that employment has on benefits other than income supports
Bipolar	Applies to data segments provided by a participant who identified as bipolar
Cardiac	Applies to data segments provided by a participant who identified as a cardiac patient
CommBar	Applies to data segments that explain the barriers a participant encounters when seeking employment (specific to community barriers, other codes exist for discrimination or differential treatment [DiscDiff], general barriers [Barriers] or policy barriers [PolBar])
CRPD	Applies to data segments that explain what a participant knows or thinks about the Convention on the Rights of Persons with Disabilities
DemandSide	Applies to data segments that refer to the need for demand side policies
Depression	Applies to data segments provided by a participant who had depression
DiscDiff	Applies to data segments that explain the barriers a participant encounters when seeking employment (specific to discrimination or differential treatment, other codes exist for community barriers [CommBar], general barriers [Barriers] or policy barriers [PolBar])
Effective	Applies to data segments that explain what features of policy or employment programs work effectively or not
EmpAd	Applies to data segments regarding the role of disability employment advisers
EmpDesire	Applies to data segments that explain what the participant feels an employer is looking for in potential employees (skills, personality characteristics, etc.)
Fears	Applies to data segments that explain what fears participants have for the future regarding employment and/or benefits
Female	Applies to data segments provided by a female participant
FindEmp	Applies to data segments that explain how a participant finds employment opportunities

TABLE II: CODEBOOK FOR ANALYSIS OF THE FOCUS GROUPS (continued)

Code	Definition
FindSupport	Applies to data segments that explain what supports a participant has or needs in order to find employment opportunities
GoalsEmp	Applies to data segments that explain what goals a participant has (with regards to employment, other goals use the GoalsLife code)
GoalsLife	Applies to data segments that explain what goals a participant has (with regards to all except for employment, which uses GoalsEmp)
GovRoleBen	Applies to data segments that explain what role a participant thinks the government has in providing benefits (GovRoleEmp is a related note that is to be used for the role a participant thinks the government has in promoting employment)
GovRoleEmp	Applies to data segments that explain what role a participant thinks the government has in promoting employment (GovRoleBen is a related note that is to be used for the role a participant thinks the government has in providing benefits)
Hearing	Applies to data segments provided by a participant with hearing disability (inclusive of deaf, Deaf, hard of hearing and other hearing-related impairments)
HRMean	Applies to data segments that explain what the words “human rights” means to a participant
Implementation	Applies to data segments that explain how participants think national policies are implemented
Inequal	Applies to data segments that explain inequalities that participants face or perceive
InfoHow	Applies to data segments that explain how a participant gets information on policy, benefits and work (use InfoWW for information specific to welfare to work programs)
InfoNeeds	Applies to data segments that explain what information needs a participant has
InfoWhere	Applies to data segments that explain where a participant gets information on policy, benefits and work (use InfoWW for information specific to welfare to work programs)
InfoWW	Applies to data segments that explain how a participant gets information on welfare to work programs (use InfoHow or InfoWhere for policies that are not specific to welfare to work programs)
Learning	Applies to data segments provided by a participant with a learning disability (not an intellectual disability)
Male	Applies to data segments provided by a male participant
MenHealth	Applies to data segments provided by a participant with a mental health condition
Middle	Applies to data segments provided by a participant between the ages of 25 and 49
Missing	Applies to data segments that explain what features of policy or employment programs are missing from national implementation

TABLE II: CODEBOOK FOR ANALYSIS OF THE FOCUS GROUPS (continued)

Code	Definition
NatALeg	Applies to data segments that explain what a person knows about their rights under national antidiscrimination legislation (use RightsKnow for information about rights in general)
OCD	Applies to data segments provided by a participant with Obsessive Compulsive Disorder
Older	Applies to data segments provided by a participant over the age of 50
Orgs	Applies to data segments that explain what influence or roles disability organizations have in supporting that participants in employment programs
Physical	Applies to data segments provided by a participant with a physical disability
PolBarriers	Applies to data segments that explain the barriers a participant encounters when seeking employment (specific to policy barriers, other codes exist for discrimination or differential treatment [DiscDiff], community barriers [CommBar] or general barriers [Barriers])
PTWork	Applies to data segments that explain what a participant thinks about part-time employment and any additional needs that are associated with part-time work
Quote	Good quote to use
Reasons	Applies to data segments that explain why a participant is seeking employment
RightsBus	Applies to data segments that explain what a participant thinks that businesses know about the rights of people with disabilities
RightsKnow	Applies to data segments that explain what a participant knows about their rights in general (use NatALeg for information specific to national antidiscrimination legislation)
Sight	Applies to data segments provided by a participant with sight-related disability (inclusive of blind and visually impaired)
SocMod	Applies to data segments that can be used to refer back to the social or medical models of disability, especially with reference to disability determination for policy purposes
Support	Applies to data segments regarding needing supports
SupportedWage	Applies to data segments that discussed the Supported Wage System
Training	Applies to data segments that detail a participant's experiences in current training, education or skills development programs (past experiences should use the TrainingPast code)
TrainingNeed	Applies to data segments that detail a participant's ideas for improving training
TrainingPast	Applies to data segments that detail a participant's past experiences in training, education or skills development programs (current experiences should use the Training code)
TTW	Applies to data segments specific to Ticket to Work
WorkBen	Applies to data segments that explain how a participant feels or thinks about having to work in order to receive benefit

TABLE II: CODEBOOK FOR ANALYSIS OF THE FOCUS GROUPS (continued)

Code	Definition
WorkDef	Applies to data segments that explain what a participant defines as work (including differentiation between paid, unpaid, volunteer and care work)
WorkDur	Applies to data segments that explain what a participant expects concerning the duration and stability of employment
WorkQual	Applies to data segments that explain the quality of work that a participant receives or expects to receive from the employment program
WorkType	Applies to data segments that explain what a participant thinks about the value of the different kinds of employment (paid, unpaid, volunteer, care work, etc.)
Young	Applies to data segments provided by a participant between the ages of 18 and 24

Analytical framework

Each national policy/program was analyzed using this framework, which is based on the United Nations Convention on the Rights of Persons with Disabilities (CRPD). The CRPD is guided by eight principles:

- Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons;
- Non-discrimination; Full and effective participation and inclusion in society;
- Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;
- Equality of opportunity;
- Accessibility;
- Equality between men and women; and,
- Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities (Article 3).

Each of these principles is embodied within each of the articles in the CRPD. Article 27 covers “work and employment” and each of the provisions contained in that article can be assessed with reference to one of the principles. Thus, the framework is organized around these seven principles (the eighth, which concerns respect for children, is omitted because the policy domain is specific to the working-age population) and the specific indicators/measures/ways to operationalize the principles come directly from Article 27. This framework suggests ways that each of the principles can be applied to the national policy context, but is not exhaustive, and not every aspect of this framework is applied to each country. To be fully inclusive is outside the scope of this dissertation.

Respect for inherent dignity, individual autonomy and independence of persons

- To what extent can participants make decisions regarding their participation in programs?
- Is the work¹⁹ freely chosen? “States Parties shall ensure that persons with disabilities are not held in slavery or in servitude, and are protected, on an equal basis with others, from forced or compulsory labor” (para. 2)
- To what extent do participants have “opportunities for self-employment, entrepreneurship, the development of cooperatives and starting one's own business” (para. 1(f))?

Non-discrimination

- To what extent does the program address discrimination between a participant and an employer “with regard to all matters concerning all forms of employment, including conditions of recruitment, hiring and employment, continuance of employment, career advancement and safe and healthy working conditions” (para. 1(a))?
- Do all participants have equal access to the same opportunities/services under the program?

¹⁹ Within this framework, ‘work’ refers to the employment obtained or being sought under participation in the specific program.

Analytical framework (continued)

Full and effective participation and inclusion in society

- Is work part of the public sector (para. 1(g))?
- Does the program “promote the employment of persons with disabilities in the private sector through appropriate policies and measures, which may include affirmative action programs, incentives and other measures” (para. 1(h))?
- Does the program promote the acquisition by persons with disabilities of work experience in the open labor market (para. 1(j))?

Respect for difference and acceptance of diversity

- To what extent does the program accept that people with disabilities may have diverse wants/needs?
 - o Does it allow for a variety of time commitments (i.e. part-time or full-time work) and partial benefits?
 - o Are the specific strengths/weaknesses of an individual taken into account during job preparation activities?
 - o Does respect for differences applies to “promot[ing] employment opportunities and career advancement for persons with disabilities in the labor market, as well as assistance in finding, obtaining, maintaining and returning to employment (para. 1 (e))?”
- Does the program promote vocational and professional rehabilitation, job retention and return-to-work programs for persons with disabilities (para. 1(k))?

Equality of opportunity

- Does the program link with other policies and/or services that allow people with disabilities to participate in work on an equal basis with others?
- Do participants have the right to “just and favorable conditions of work” on an equal basis with others, including:
 - o equal opportunities and equal remuneration for work of equal value
 - o safe and healthy working conditions
 - o including protection from harassment
 - o redress of grievances (para. 1(b))
- Are participants able to join and participate in labor and trade unions on an equal basis with others (para. 1(c))?
- Are people with disabilities able “to have effective access to general technical and vocational guidance programs, placement services and vocational and continuing training” (para. 1(d))?

Accessibility

- Does program “Ensure that reasonable accommodation is provided to persons with disabilities in the workplace (para. 1(i))?”
- Does the program include information on anti-discrimination?
- Does the program link with efforts to remove access obstacles and provide assistive technology?

Analytical framework (continued)**Equality between men and women**

- Are men and women treated the same under the program?
- Does the program account for childcare/housework that often demands more time from women?

Focus Group Guide

Good morning/afternoon, my name is (insert name). Thank you all for agreeing to participate in this research. Everyone around the table is involved in an employment program and our goal today is to find out more about your experiences in those programs. Please remember that your participation is confidential, and although we are audio taping today's group, nobody aside from the focus group and your fellow participants will be able to determine who said what when we published the results. Please remember that it is important to respect the privacy and confidentiality of the other participants in this focus group by not repeating what was said today to other people. If you do not feel comfortable answering a question, it is okay to pass. This session today will last between one hour and an hour and a half. If you need to excuse yourself at any point, please feel free to do so. As I've said, my name is (insert name) and I'll be facilitating today's focus group, sitting near the back is my partner (insert name) who will be taking notes and assisting us with any questions that may arise. With that I would like to get started by having everyone introduce themselves. I would like the person on my right to begin and we will move the around circle.

Thank you all for those introductions.

Warm up question

I would like you to start by telling me your thoughts on what work means? (Is it important to you? Do other people see it as important?)

Talking Point: Training/Education

What training or education (in relation to employment) have you participated in?

[Probe: what do you think about them? Have they been effective?]

[Probe: is there anything missing from these programs that you would like to see included?]

[Probe: are your employment goals (the type of employment you desire) taken into account when you design your training?]

What training/skills/characteristics do you think that employers are looking for when they make hiring decisions?

[Probe: are your training programs matched up well with what employers want?]

Talking Point: Accessing Information

How did you become involved in your employment program?

[Probe: where did you first hear about it?]

[Probe: why did you participate in the program?]

Where do you get information about employment opportunities and programs?

[Probe: do the agencies that you work with have resources to answer all of your questions?]

[Probe: what information do you wish you had?]

Talking Point: Employment Opportunities

What helps you find employment opportunities?

[Probe: what strategies have you found successful?]

[Probe: what support do you need to access employment? Who should provide that support?]

What are the main barriers you experience to finding employment?

[Probe: do you encounter discrimination in the job market? Do you feel that people treat you differently when you apply for a job or on the job?]

[Probe: are there things in the community that prevent you from accessing employment?]

[Probe: are there any policy barriers that you experience?]

Talking Point: Income Support

Do you think the government should have a role in helping people with disabilities find and secure employment?

[Probe: how do you/would you feel about working for your benefits e.g. SSDI/DSP/access to healthcare?]

[Probe: do you think different types of work should be equally valued e.g. voluntary unpaid caring work, part-time work?]

[Probe: what type of information have you seen about disability and work?]

[Probe: what do you think government should do so that people with disabilities have more employment opportunities?]

Talking Point: Rights

What do you know about the ADA/DDA?

[Probe: have you ever encountered an experience where your rights were ignored?]

[Probe: do you think that businesses know enough about this law?]

When you hear the words ‘human rights’, what do you think of?

[Probe: have you ever heard of the United Nations Convention on the Rights of Persons with Disabilities?]

Thank you for your time today. Unfortunately we're out of time, but you have given us some very valuable information. If any of you have any questions please feel free to contact me or any member of the research team with the contact information included on the copy of the informant consent document that you signed earlier. Thank you again, and everyone have a fantastic end to the day.

Recruitment Material**E-Mail Text:****United Kingdom:**

Hi,

I am a PhD student researcher from the University of Illinois at Chicago visiting Leeds for a few months within the Centre for Disability Studies at the University of Leeds. I want to hold focus groups with disabled people regarding their experiences with disability benefits, employment programs and welfare to work. I have attached a flyer to advertise this opportunity (copied in text below). I would greatly appreciate any assistance with advertising and/or forwarding this message to other groups or email lists. Thanks in advance for your help!

Randall

Australia:

Hi,

I am a researcher and PhD student working with the Social Policy Research Centre and Disability Studies Research Centre at the University of New South Wales in Sydney for the next few months, originally from the University of Illinois at Chicago. Part of the research is to hold focus groups with people with disabilities regarding their experiences and perspectives on disability benefits, employment programs and welfare to work. I have attached a flyer to advertise this opportunity (copied in text below). I would greatly appreciate any assistance with advertising and/or forwarding this message to other groups or email lists. Thanks in advance for your help and I look forward to hearing from you!

Randall

United States:

Hi,

I wanted to ask for your help recruiting people to participate in research that Dr. Sarah Parker and I are working on. This project has been approved by the ethics office at the University of Illinois at Chicago (protocol 2010-0166).

We are looking for people with disabilities to participate in focus groups in the coming weeks. The characteristics of the people that we are looking for is that they identify as having a disability, receive Social Security benefits and participate in employment training/placement/skill development programs using the Ticket to Work program funded by the Social Security Administration. Potential participants should live in the city of Chicago.

Please forward this e-mail and the attached recruitment flyer to anyone you think might be interested, other listeners that you are on, or any other contacts who might have ideas for recruiting.

Thanks for your assistance,

Randall

Recruitment Flyer:**Are you a person with a disability?****Do you currently receive disability benefits?****Do you want to work?**

If so, we want to talk to you! A research project at the University of Illinois at Chicago is interested in your experiences in and views of employment programs associated with work-related activities under reform to [insert name of disability benefit program]. We would like for you to participate in a focus group and share your experiences with the researchers and a group of people like you.

Who?

To be eligible, you must:

- live in the city of [Chicago/Leeds/Sydney] or receive services there;
- be between the ages of 18 and 64;
- receive [insert name of disability benefit program]; or be participating in or eligible for employment services through [insert name of employment policy]

What?

We are asking you to participate in a focus group and discuss the issues that you have encountered and ideas that you have about programs that move individuals from receiving benefits into programs that have work requirements and emphasize the labor market. The focus group will last for about an hour and a half, and you will be compensated [insert amount in local currency] for your participation.

Where and when?

A series of focus groups will be scheduled around the city of [insert name of city] at various times in the month of [insert correct month]. You will be able to choose the date and location that works best for you.

Why?

This research is part of a project comparing employment policy for people with disabilities in the United States, Australia and the United Kingdom. As part of our data collection, we are particularly interested in hearing from people participating in the employment services that have resulted from reforms to the disability benefit system.

If interested, please contact Randall Owen via email at rowen4@uic.edu or via the telephone at +1 312 413 2299 or [insert local telephone number]. He will be will to give you more information, discuss the project with you in more detail and answer any questions that you might have.

* Accommodations will be provided upon request.

TABLE III: CHARACTERISTICS OF THE FOCUS GROUP PARTICIPANTS

Name	Gender	Age	Race / Ethnicity	Education	Disability Type	Benefit Program	Employment Program	Past Work?
<u>United States</u>								
Ari	Female	41	White	Masters Degree	Physical			Yes
Ben	Male	54	Black	Some College	Physical	SSI	Internship	Yes
Christa	Female	41	Puerto Rican	Some College	Physical	SSDI	National, nonprofit disability services provider	Yes
Dave	Male	55	White	GED	Hearing		Local CIL employment meetings	Yes
Edna	Female	51	Black	9 th Grade	Bipolar	SSI/SSDI	Local CIL employment meetings	Yes
Faith	Female	30	Black	Some College	Mental Illness			Yes
Galia	Female	40	White	High School	Bipolar	SSDI		Yes
Herb	Male	53	Black	High School	Depression			Yes
Ira	Male	61	Black	7th Grade	Learning Disability	SSDI	Central State Fair	Yes
Jack	Male	55	Black	College Degree	Physical	SSDI	Management Training Provider ^a	Yes
Kelly	Female	57	Multi	In PhD Program	Mental health	SSDI	Employment Training Provider ^a	Yes
Lara	Female	48	White	Masters Degree	Visual	SSDI		Yes
Matt	Male		Black	GED	Learning Disability			Yes
Pat	Male	51	Black	Some College	Visual	SSI	Another State's Rehabilitation System	Yes
Ryan	Male	57	White	High School	Visual	SSDI	CIL Program to Find and Advocate for Employment	Yes
Sam	Male	40	White	Some College	Visual	SSDI	Provider Specific to Visual Disability	Yes

TABLE III: CHARACTERISTICS OF THE FOCUS GROUP PARTICIPANTS
(continued)

Name	Gender	Age	Race / Ethnicity	Education	Disability Type	Benefit Program	Employment Program	Past Work?
Thad	Male	51	Puerto Rican	College Degree	Visual	SSDI	Provider Specific to Visual Disability Employment Training Provider ^a	Yes
Vicki	Female	49	White	Some College	Physical			Yes
<u>Australia</u>								
Anne	Female	26	Indian	University Degree	Physical and Visual	DSP, Wage subsidies	Disability-specific provider	Yes
Barb	Female	60	Bulgarian	Tertiary	Visual	DSP		Yes
Chris	Male			University Degree	Visual	DSP, Mobility Allowance	Provider specific to clients with visual impairments	Yes
Deb	Female	48	Anglo Australian	BA Degree	Visual	DSP	General Employment Program	Yes
Erin	Female	28	Anglo Australian	BA Degree	Visual	DSP, Mobility Allowance	Provider specific to clients with visual impairments	Only as a volunteer
Frank	Male	48	Anglo Australian	Tertiary	Physical			Yes
Gus	Male	26	Anglo Australian	High School Certificate in IT	Mental health	DSP	Disability-specific provider ^b	Yes
Hank	Male	35	Anglo Australian	High School Certificate	Visual		Disability-specific provider ^b	Yes
Ida	Female	53	Anglo Australian	School Certificate (Year 10)	Cardiac Patient		Disability-specific provider ^b	Yes
Jess	Female	46	Anglo Australian	School Certificate (Year 10)	Physical		Disability-specific provider ^b	Yes
Kurt	Male	49	Anglo Australian	School Certificate (Year 10)	Physical		Disability-specific provider ^b	Yes
Leo	Male	42	Anglo Australian	High School Certificate	OCD		Disability-specific provider ^b	Yes
Mark	Male	20	Anglo Australian	High School Certificate	Physical		Disability-specific provider ^b	Yes

TABLE III: CHARACTERISTICS OF THE FOCUS GROUP PARTICIPANTS
(continued)

Name	Gender	Age	Race / Ethnicity	Education	Disability Type	Benefit Program	Employment Program	Past Work?
Nick	Male	28	Anglo Australian		Physical		Disability-specific provider ^b	Yes
Omar	Male	21	Anglo Australian	High School Certificate	Epilepsy		Disability-specific provider ^b	No
Pete	Male	40	Anglo Australian	High School Certificate	Acquired Brain Injury		Disability-specific provider ^b	Yes
Quinn	Female	20	Anglo Australian	High School Certificate	Physical		Disability-specific TTW provider ^c	Yes
Rick	Male	19	Indian	High School Certificate	Visual	DSP	Disability-specific TTW provider ^c	No
Sue	Female	19	Anglo Australian	High School Certificate	Physical		Disability-specific TTW provider ^c	No
Tina	Female	19	Anglo Australian	High School Certificate	Hard of Hearing and Visual		Disability-specific TTW provider ^c	No
Vince	Male	19	Vietnam. Origin	High School Certificate	Asberger's		Disability-specific TTW provider ^c	No
Wes	Male	19	Anglo Australian	High School Certificate	Physical	DSP, Mobility Allowance	Disability-specific TTW provider ^c	No
Yuri	Male	20	Anglo Australian	High School Certificate	Asberger's		Disability-specific TTW provider ^c	No
Zack	Male	21	Chinese	High School Certificate	Physical	DSP	Disability-specific TTW provider ^c	No
<u>United Kingdom</u>								
Abe	Male	45	White	University degree	Hearing	None	Access to Work	Yes
Beth	Female	39	White	NVQ levels 1 +2	Physical and Visual	Disability Living Allowance (DLA) and Severe Disablement		No

**TABLE III: CHARACTERISTICS OF THE FOCUS GROUP PARTICIPANTS
(continued)**

Name	Gender	Age	Race / Ethnicity	Education	Disability Type	Benefit Program	Employment Program	Past Work?
Cara	Female	60	White	University degree	Physical	DLA		Yes
Dan	Male	50	Indian	NVQ level 1	Physical	IB		Yes
Erica	Female	46	White	City and guild English and math	Physical	DLA		No
Fran	Female	38	White	GSCE at high school	Physical	Income Support		Yes
Gaby	Female	35	White	GCSE	Physical	DLA		No
Hope	Female	37	White		Acquired Brain Injury	Incapacity Benefit and DLA		Yes
Ian	Male	56	White	Sec. mod	Physical	IB		Yes
Jan	Female	57	White		Physical	DLA and Income Support		No
Kate	Female	47	White	Secondary boarding school	Physical and mild learning disability	DLA and Income Support		Only as a Volunteer
Larry	Male	57	White	MDQ level 1+2	Visual	IB and DLA	Pathways to Work providers (2)	Yes
Mike	Male	56	White	Grammar	Physical		Pathways to Work provider	Yes
Nikki	Female	34	Other	Finishing PhD program	Physical and Visual	DLA and Income Support		No
Ron	Male	53	Indian	University training	Visual	Employment and Support Allowance	Pathways to Work provider	Yes

^a Ticket to Work Employment Network Provider

^b Employment services (including open, transition to work, and supported employment services) were offered by one program in an organization for people with a specific disability type; organization hosted a focus group for participants in the program

^c Employment services (emphasizing transition to work) were offered by one program in an organization for people with disabilities; organization hosted a focus group for participants in the program

Blank cells were either withheld or unknown

Informed Consent

University of Illinois at Chicago
Consent for Participation in Research

“Equality Through Difference: Disability Rights, Policy Values and Employment in the United States, Australia and the United Kingdom”

Why am I being asked?

You are being asked to be a subject in a research study about the participation of people with disabilities in national programs to help them access employment conducted by a research team led by Dr. Sarah Parker in the Department of Disability and Human Development at the University of Illinois at Chicago. You have been asked to participate in the research because you responded to a research solicitation as a person with a disability who has or is involved with an employment program and may be eligible to participate. We ask that you read this form and ask any questions you may have before agreeing to be in the research.

Your participation in this research is voluntary. Your decision whether or not to participate will not affect your current or future relations with the University. If you decide to participate, you are free to withdraw at any time without affecting that relationship.

Why is this research being done?

This research is being conducted to gain greater understanding of the experiences of people with disabilities in the labor market, particularly in government programs designed get them into employment. The focus will be on barriers and facilitators to employment and what things employment programs do well and need to improve on as well as the participants' attitudes toward policy in general. The research will include a number of viewpoints, including people with disabilities, service providers, employers and policymakers. Identical research will be conducted in Sydney, Australia; Leeds, United Kingdom; and Chicago, United States.

If you choose to participate, you will attend a focus group with five other individuals and respond to questions and share your opinions and experiences regarding government employment policies and programs. The information you provide could be used to inform policy-makers as they seek to reform their programs. In addition, many participants will find it beneficial to discuss these topics with people with similar experiences. There is no risk or harm directly associated with the study.

What is the purpose of this research?

The purpose of this research is to gather data on the experiences of people with disabilities within government employment programs and policies. Data from people with disabilities participating in a program, service providers, employers and policymakers will be combined with policy analysis to comprehensively examine disability employment policy in the United States, United Kingdom and Australia and compare these countries.

The focus groups are being conducted to better understand the experiences of people with disabilities in national employment programs and policies.

What procedures are involved?

If you agree to be in this research, we would ask you to do the following things:

- Attend and participate in one focus group session for approximately an hour and a half. Each group will have six participants. Four focus groups will be scheduled and you will be able to choose the time that works best for you.
- Sign this consent form and return to the research team.
- Complete a form detailing your personal characteristics.
- Be open and honest with your responses during the focus groups.
- Respect the opinions and viewpoints of the other participants, and respectfully disagree when appropriate.
- Be respectful of the other participants' privacy and keep their responses confidential.

Approximately 102 total people may be involved in this research, 34 in each city of Sydney, Australia; Leeds, United Kingdom; and Chicago, United States. In each city, 24 participants will be people with disabilities in focus groups. The remainder will be interviews with service providers (4), employers (3), and policymakers (3).

What are the potential risks and discomforts?

The research has several risks and discomforts:

- Participants will be asked to share their personal experiences with government employment programs and policies in front of a small group. Some participants may disagree with one another, which may result in some discomfort, although participants are expected to be courteous and respectful of one another's views. The researcher will intervene and mediate, when necessary.
- Participants will be inconvenienced since they will be asked to arrange their own travel to and from the focus group location and spend two hours there.

If you, the participant, are involved in another research protocol or project, please inform the researcher. Unless the other research is employment-centered, you will still be eligible for this research.

Are there benefits to taking part in the research?

The information you provide will be used to inform research on employment policies for people with disabilities. The project, and your input, will provide crucial evidence of the experiences of people with disabilities. The data will be compared across responses from Australia, the United Kingdom, and the United States to show how they are similar and different in their employment policies and to identify best practices.

In addition, many participants will find it beneficial to discuss these topics with people with similar experiences.

What other options are there?

If you wish to participate in this research but cannot attend a focus group, you may contact the research team and ask to be interviewed via telephone instead. Such an interview would last approximately one hour.

What about privacy and confidentiality?

The only people who will know that you are a research subject are members of the research team and your fellow focus group participants. No information about you, or provided by you during the research, will be disclosed to others without your written permission, except:

- if necessary to protect your rights or welfare (for example, if you are injured and need emergency care or when the UIC Institutional Review Board monitors the research or consent process); or
- if required by law.

When the results of the research are published or discussed in conferences, no information will be included that would reveal your identity. If photographs, videos, or audiotape recordings of you will be used for educational purposes, your identity will be protected or disguised. Although all focus group participants are asked to respect the privacy and confidentiality of the other participants, confidentiality in a focus group setting cannot be guaranteed.

Each participant must sign a copy of this consent form and submit it to the research team prior to participating in the research.

The focus groups will be audiotaped and transcribed. You have the right to review and edit them. Only the research team will have access to the tapes and transcripts. The tapes will be stored in a locked drawer, accessible only by the research team, in the researcher's office on the UIC campus along with all of the research data and records. The transcripts will also be kept in locked file cabinet, both as electronic files on a memory stick and as printed hard copies. Personal data and identities will be assigned a pseudonym when transcripts are created and the link between data and an individual's name destroyed as early as possible. If the data is published or reproduced in any way, names will not be used and major identifying markers will be changed.

When the researcher is traveling or off-campus, research documents and materials will be locked in a briefcase, accessible only to the research team.

All of the research material, including audiotapes and transcripts, will be destroyed at the end of the research.

What are the costs for participating in this research?

The costs to participate in this research are travel expenses to attend the focus group and two hours of time spent in the group.

Will I be reimbursed for any of my expenses or paid for my participation in this research?

The only reimbursement that participants will receive is \$25 USD to help participants with the costs of transportation and/or parking. This will be disbursed as a gift card from a local bank.

Can I withdraw or be removed from the study?

You can choose whether to be in this study or not. If you volunteer to be in this study, you may withdraw at any time without consequences of any kind. You may also refuse to answer any questions you don't want to answer and still remain in the study. The investigator may withdraw you from this research if circumstances arise which warrant doing so. These circumstances include severely inappropriate behavior (e.g. fighting, verbal abuse, intimidation of other participants, etc.) during the focus group. The researcher will remove such a participant from the group, give him or her the compensation promised, and continue the research without the individual.

Who should I contact if I have questions?

The researcher conducting this study is Dr. Sarah Parker. You may ask any questions you have now. If you have questions later, you may contact the researcher by phone at +1 312 996 5485 or email at skparker@uic.edu. A PhD student, Randall Owen, is the co-investigator and he can be reached at [insert local number] or rowen4@uic.edu.

What are my rights as a research subject?

If you feel you have not been treated according to the descriptions in this form, or you have any questions about your rights as a research subject, you may call the Office for the Protection of Research Subjects (OPRS) at 312-996-1711 (local) or 1-866-789-6215 (toll-free) or e-mail OPRS at uicirb@uic.edu.

What if I am a UIC student?

You may choose not to participate or to stop your participation in this research at any time. This will not affect your class standing or grades at UIC. The investigator may also end your participation in the research. If this happens, your class standing or grades will not be affected. You will not be offered or receive any special consideration if you participate in this research.

What if I am a UIC employee?

Your participation in this research is in no way a part of your university duties, and your refusal to participate will not in any way affect your employment with the university, or the benefits, privileges, or opportunities associated with your employment at UIC. You will not be offered or receive any special consideration if you participate in this research.

Remember: Your participation in this research is voluntary. Your decision whether or not to participate will not affect your current or future relations with the University. If you decide to participate, you are free to withdraw at any time without affecting that relationship.

You will be given a copy of this form for your information and to keep for your records.

Signature of Subject

I have read (or someone has read to me) the above information. I have been given an opportunity to ask questions and my questions have been answered to my satisfaction. I agree to participate in this research. I have been given a copy of this form.

Signature

Date

Printed Name

Signature of Researcher

Date (must be same as subject's)

Ethical Approvals

University of Illinois at Chicago IRB Approval:

UNIVERSITY OF ILLINOIS
AT CHICAGO

Office for the Protection of Research Subjects (OPRS)
Office of the Vice Chancellor for Research (MC 672)
203 Administrative Office Building
1737 West Polk Street
Chicago, Illinois 60612-7227

Exemption Granted

March 26, 2010

Sarah Parker
Disability and Human Development
1640 W. Roosevelt Rd. Suite 436
M/C 626
Chicago, IL 60608
Phone: (312) 996-5485

RE: Research Protocol # 2010-0166

“Equality Through Difference: Disability Rights, Policy Values and Employment in the United States, Australia and the United Kingdom”

Dear Sarah Parker:

Your Claim of Exemption was reviewed on March 26, 2010 and it was determined that your research meets the criteria for exemption. You may now begin your research.

Exemption Period: March 26, 2010 – March 25, 2013

The specific exemption category under 45 CFR 46.101(b) is:

(2) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior, unless: (i) information obtained is recorded in such a manner that human subjects can be identified, directly or through identifiers linked to the subjects; and (ii) any disclosure of the human subjects' responses outside the research could reasonably place the subjects at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, or reputation.

You are reminded that investigators whose research involving human subjects is determined to be exempt from the federal regulations for the protection of human subjects still have responsibilities for the ethical conduct of the research under state law and UIC policy. Please be aware of the following UIC policies and responsibilities for investigators:

1. Amendments You are responsible for reporting any amendments to your research protocol that may affect the determination of the exemption and may result in your research no longer being eligible for the exemption that has been granted.

2. Record Keeping You are responsible for maintaining a copy all research related records in a secure location in the event future verification is necessary, at a minimum these documents include: the research protocol, the claim of exemption application, all questionnaires, survey instruments, interview questions and/or data collection instruments associated with this research protocol, recruiting or advertising materials, any consent forms or information sheets given to subjects, or any other pertinent documents.
3. Final Report When you have completed work on your research protocol, you should submit a final report to the Office for Protection of Research Subjects (OPRS).
4. Information for Human Subjects UIC Policy requires investigators to provide information about the research protocol to subjects and to obtain their permission prior to their participating in the research. The information about the research protocol should be presented to subjects in writing or orally from a written script. When appropriate, the following information must be provided to all research subjects participating in exempt studies:
 - a. The researchers affiliation; UIC, JBVMAC or other institutions,
 - b. The purpose of the research,
 - c. The extent of the subject's involvement and an explanation of the procedures to be followed,
 - d. Whether the information being collected will be used for any purposes other than the proposed research,
 - e. A description of the procedures to protect the privacy of subjects and the confidentiality of the research information and data,
 - f. Description of any reasonable foreseeable risks,
 - g. Description of anticipated benefit,
 - h. A statement that participation is voluntary and subjects can refuse to participate or can stop at any time,
 - i. A statement that the researcher is available to answer any questions that the subject may have and which includes the name and phone number of the investigator(s).
 - j. A statement that the UIC IRB/OPRS or JBVMAC Patient Advocate Office is available if there are questions about subject's rights, which includes the appropriate phone numbers.

Please be sure to:

→ Use your research protocol number (2010-0166) on any documents or correspondence with the IRB concerning your research protocol.

We wish you the best as you conduct your research. If you have any questions or need further help, please contact the OPRS office at (312) 996-1711 or me at (312) 355-2908. Please send any correspondence about this protocol to OPRS at 203 AOB, M/C 672.

Sincerely,
Charles W. Hoehne, CIP
Assistant Director, IRB # 2
Office for the Protection of Research Subjects

Enclosure: None

cc: Tamar Heller, Disability and Human Development, M/C 626

University of Leeds Approval:

Research Support
 3 Cavendish Road
 University of Leeds
 Leeds LS2 9JT
 Tel: 0113 343 4873
 e-mail: j.m.blaikie@adm.leeds.ac.uk

**AREA Faculty Research Ethics Committee****University of Leeds**

30 September 2011

Randall Owen, MS
 University of Illinois at Chicago
 Ph.D. Candidate in Disability Studies
 Graduate Assistant
 1640 W. Roosevelt Rd. (MC 626)
 Room 205
 Chicago, IL 60608

Dear Randall

Title of study: Equality Through Difference: Disability Rights, Policy Values and Employment in the United States, Australia and the United Kingdom

Ethics Reference Number: AREA 09-063

The above project was reviewed by the Chair of the AREA Faculty Research Ethics Committee at the University of Leeds, UK on 15th April 2010. The following documentation was considered:

<i>Document</i>	<i>Version</i>	<i>Date</i>
Ethical Review Form	1	30/03/10
UIC Approval	1	30/03/10
irb supporting docs	1	30/03/10
protocol (marked) - a	1	30/03/10

On the basis of the information provided, the Chair is happy to approve the project on behalf of the Committee.

Yours sincerely

Jennifer Blaikie
Research Ethics Administrator
Research Support
On Behalf of
Professor Anne Kerr, Chair, AREA FREC.

University of New South Wales Approval E-mail:

Dear Professor Parker

Equality through difference: Disability rights, policy values and employment in the United States, Australia and the United Kingdom

HREC 10094/UIC 2010-0166

In order to provide timely feedback with regard to your ethics application, below is an extract of the minutes of the Executive meeting held on 30 March 2010

Quote

The Committee noted and accepted the approval given by the University of Illinois at the Chicago Institutional Review Board to Ms Sarah Parker dated 26 March 2010 for the above project to proceed.

The Executive felt that, for the convenience of participants in Australia, a local complaints mechanism (eg as per the UNSW Participant Information Statement and Consent Form proforma) should be added to the one already in place.

Unquote

An approval letter will be sent to you in the mail.

Kind regards

Annamarie D'souza

Ethics Officer

Ethics Secretariat

UNSW Grants Management Office

Telephone : 02 9385 7251

Fax: 02 9385 6648

Email: anna.dsouza@unsw.edu.au

http://www.gmo.unsw.edu.au/Ethics/Ethics_index.html

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feedbackonunswresearchservices@unsw.edu.au. Your feedback will be followed up by the Director within 72 hours. /

ABN 57 195 873 179

CRICOS 0098G

VITA

NAME: Randall J. Owen

EDUCATION: B.A., Political Science and Sociology, Hope College, Holland, Michigan, 2005

M.S., Disability and Human Development, University of Illinois at Chicago, Chicago, Illinois, 2007

Ph.D., Disability Studies, University of Illinois at Chicago, Chicago, Illinois, 2011

TEACHING EXPERIENCE: Department of Disability and Human Development, Chicago, Illinois:

- DHD 581: Disability Policy I: Foundations of Disability Policy (Co-Instructor, Spring 2011)
- DHD 401: Introduction to Disability and Human Development (Co-Instructor, Fall 2010)
- DHD 581: Disability Policy II: Contemporary Issues in Disability Policy (Teaching Assistant, Spring 2010)
- DHD 581: Disability Policy I: Foundations of Disability Policy (Teaching Assistant, Fall 2009)

HONORS: Ann & Edward Page-El, Department of Disability and Human Development, University of Illinois Chicago, Chicago, Illinois, 2011

Departmental Achievement Award, Department of Disability and Human Development, University of Illinois Chicago, Chicago, Illinois, 2007

Senior Sociology Award, Hope College, Holland, Michigan, 2005

PROFESSIONAL EXPERIENCE: Graduate Assistant, Institute on Disability and Human Development, September – August 2011

Graduate Research/Teaching Assistant, Department of Disability and Human Development, University of Illinois at Chicago, August 2006 – August 2011

- w/Dr. Sarah Parker Harris for January 2008 – August 2011
- w/ Dr. Glenn Fujiura for August 2006 – August 2007

Disability and Business Technical Assistance Center: Great Lakes. Graduate Assistant. August 2005 – December 2007

Lakeshore Center for Independent Living. Intern. May 2004 – August 2004; May 2005 – August 2005. Holland, MI.

Lakeshore Center for Independent Living. Focus Group Analyst. August 2004 – December 2004.

VITA (continued)

- PUBLICATIONS: Parker Harris, S., **Owen, R.**, and Gould, R. (in review as of March 2011). "Parity of Participation in Liberal Welfare States: human rights, neoliberalism, disability and employment." *Disability & Society*.
- Parker Harris, S., **Owen, R.**, & Fisher, K.R. (planned submission July 2011). "Human Rights and Neoliberalism in Australian Welfare to Work Policy: Experiences and Perceptions of People with Disabilities and Disability Stakeholders".
- Parker Harris, S., **Owen, R.**, & Fisher, K.R. (planned submission July 2011). "Structural and Cultural Justice in Disability Policy: a social justice approach employment participation for people with disabilities".
- Owen, R., Parker Harris, S. & Priestley, M. (planned submission July 2011). "'No rights without responsibilities': disability rates and neoliberal forms under New Labour".
- Parker Harris, S., **Owen, R.**, & Jones, R. (planned submission August 2011). "Disability rights and workfare policy in the United States".
- Parker, S., **Owen, R.**, Gendera, S., Katz, I., and Goldblatt, B. (2010). "Early Intervention regarding Economic and Social Participation for Disability Benefit Recipients: an international review." Report prepared for Australian Department of Families, Housing, and Community Services and Indigenous Affairs (FaHCSIA). Sydney: Social Policy Research Centre, University of New South Wales.
- Fujiura, G.T, Rutkowski-Kmitta, V. and **Owen, R.** (2010). "Make Measurable What Is Not So: National Monitoring of Intellectual Disability." *Journal of Intellectual & Developmental Disability*, 35(4): 244-258.
- Owen, R.J. (2004). Analysis of Focus Groups: MAX Expansion Proposal. Holland, Michigan: Frost Research Center.
- PRESENTATIONS: Parker Harris, S. and **Owen, R.** (August 2011). "Disability Employment in the United States, Australia and the United Kingdom." Paper presented at the annual meeting of the American Sociological Association, Las Vegas, NV.
- Owen, R. and Parker Harris, S. (June 2011). "Welfare Reform, Employment and Neoliberalism: The Experiences of People with Disabilities in Liberal Welfare States." Paper presented at the Society for Disability Studies conference, San Jose, CA.

VITA (continued)

Parker Harris, S. and **Owen, R.** (June 2011). "Disability Rights, Policy Values and Employment in the United States, Australia and the United Kingdom." Paper presented at the Society for Disability Studies conference, San Jose, CA.

Owen, R. (2010, August 25). "Neoliberalism, human rights and disability: evidence from Australia and the United Kingdom." Presentation at the Disability Studies Research Centre, University of New South Wales, Sydney, Australia.

Owen, R. (2010, August 2). "People with Disabilities, Employment and the UN Convention: impressions from the UK." Presentation to Higher Research Degree Student seminar series at the Social Policy Research Center, University of New South Wales, Sydney, Australia.

Parker, S. and **Owen, R.** (June 2010). "Parity of Participation in Liberal Welfare States: Human Rights, Disability and Employment." Paper presented at the Society for Disability Studies conference, Philadelphia, PA.

Owen, R. (2008, April 14). "Measuring Disability Rights: Using Multivocal Literatures and the Standard Rules." Paper presented at the Pacific Rim Conference on Disability, Honolulu, Hawaii.

Owen, R. (2008, October 15). "Adherence to UN Standard Rules: An Exploratory Typology and Benchmarking for 11 Nations." Master's Thesis Presentation. Department of Disability and Human Development, University of Illinois at Chicago.

PROFESSIONAL MEMBERSHIP:

Society for Disability Studies
American Sociological Association